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**1994**

# ***Illinois Register***

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**Rules of Governmental Agencies**

Volume 18, Issue 2 — January 14, 1994

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Secretary of State

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## INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. Rulemaking activity consists of proposed or adopted new rules or amendments to or repealers of existing rules, including those by emergency or peremptory action.

The *Register* also contains Executive Orders and Proclamations issued by the Governor, notices of public information required by State statute, and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies. In addition, the *Register* contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current *Register* volume and a Sections Affected Index listing, by Title of the *Illinois Administrative Code*, each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume. Both indices are action coded and are designed to aid the public in monitoring rules.

The *Register* will serve as the update to the *Illinois Administrative Code*, a compilation of the rules of State agencies. The most recent edition of the *Code* along with the *Register* comprise the most current accounting of the State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

## REGISTER PUBLICATION SCHEDULE 1994

| Material Rec'd<br>after 12:00 p.m. on: | And before<br>12:00 p.m. on: | Will be in<br>Issue #: | Published<br>on: | Material Rec'd<br>after 12:00 p.m. on: | And before<br>12:00 p.m. on: | Will be in<br>Issue #: | Published<br>on:     |
|--|------------------------------|------------------------|------------------|--|------------------------------|------------------------|----------------------|
| Dec. 21, 1993                          | Dec. 28, 1993                | 1                      | Jan. 7, 1994     | June 28, 1994                          | July 5, 1994                 | 28                     | July 15, 1994        |
| Dec. 28, 1993                          | Jan. 4, 1994                 | 2                      | Jan. 14, 1994    | July 5, 1994                           | July 12, 1994                | 29                     | July 22, 1994        |
| Jan. 4, 1994                           | Jan. 11, 1994                | 3                      | Jan. 21, 1994    | July 12, 1994                          | July 19, 1994                | 30                     | July 29, 1994        |
| Jan. 11, 1994                          | Jan. 18, 1994                | 4                      | Jan. 28, 1994    | July 19, 1994                          | July 26, 1994                | 31                     | Aug. 5, 1994         |
| Jan. 18, 1994                          | Jan. 25, 1994                | 5                      | Feb. 4, 1994     | July 26, 1994                          | Aug. 2, 1994                 | 32                     | Aug. 12, 1994        |
| Jan. 25, 1994                          | Feb. 1, 1994                 | 6 (Mon.)               | Feb. 14, 1994    | Aug. 2, 1994                           | Aug. 9, 1994                 | 33                     | Aug. 19, 1994        |
| Feb. 1, 1994                           | Feb. 8, 1994                 | 7                      | Feb. 18, 1994    | Aug. 9, 1994                           | Aug. 16, 1994                | 34                     | Aug. 26, 1994        |
| Feb. 8, 1994                           | Feb. 15, 1994                | 8                      | Feb. 25, 1994    | Aug. 16, 1994                          | Aug. 23, 1994                | 35                     | Sept. 2, 1994        |
| Feb. 15, 1994                          | Feb. 22, 1994                | 9                      | Mar. 4, 1994     | Aug. 23, 1994                          | Aug. 30, 1994                | 36                     | Sept. 9, 1994        |
| Feb. 22, 1994                          | Mar. 1, 1994                 | 10                     | Mar. 11, 1994    | Aug. 30, 1994                          | Sept. 6, 1994                | 37                     | Sept. 16, 1994       |
| Mar. 1, 1994                           | Mar. 8, 1994                 | 11                     | Mar. 18, 1994    | Sept. 6, 1994                          | Sept. 13, 1994               | 38                     | Sept. 23, 1994       |
| Mar. 8, 1994                           | Mar. 15, 1994                | 12                     | Mar. 25, 1994    | Sept. 13, 1994                         | Sept. 20, 1994               | 39                     | Sept. 30, 1994       |
| Mar. 15, 1994                          | Mar. 22, 1994                | 13                     | Apr. 1, 1994     | Sept. 20, 1994                         | Sept. 27, 1994               | 40                     | Oct. 7, 1994         |
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| Mar. 29, 1994                          | Apr. 5, 1994                 | 15                     | Apr. 15, 1994    | Oct. 4, 1994                           | Oct. 11, 1994                | 42                     | Oct. 21, 1994        |
| Apr. 5, 1994                           | Apr. 12, 1994                | 16                     | Apr. 22, 1994    | Oct. 11, 1994                          | Oct. 18, 1994                | 43                     | Oct. 28, 1994        |
| Apr. 12, 1994                          | Apr. 19, 1994                | 17                     | Apr. 29, 1994    | Oct. 18, 1994                          | Oct. 25, 1994                | 44                     | Nov. 4, 1994         |
| Apr. 19, 1994                          | Apr. 26, 1994                | 18                     | May 6, 1994      | Oct. 25, 1994                          | Nov. 1, 1994                 | 45                     | Nov. 14, 1994 (Mon.) |
| Apr. 26, 1994                          | May 3, 1994                  | 19                     | May 13, 1994     | Nov. 1, 1994                           | Nov. 7, 1994 (Mon.)          | 46                     | Nov. 18, 1994        |
| May 3, 1994                            | May 10, 1994                 | 20                     | May 20, 1994     | Nov. 7, 1994                           | Nov. 15, 1994                | 47                     | Nov. 28, 1994 (Mon.) |
| May 10, 1994                           | May 17, 1994                 | 21                     | May 27, 1994     | Nov. 15, 1994                          | Nov. 22, 1994                | 48                     | Dec. 2, 1994         |
| May 17, 1994                           | May 24, 1994                 | 22                     | June 3, 1994     | Nov. 22, 1994                          | Nov. 29, 1994                | 49                     | Dec. 9, 1994         |
| May 24, 1994                           | May 31, 1994                 | 23                     | June 10, 1994    | Nov. 29, 1994                          | Dec. 6, 1994                 | 50                     | Dec. 16, 1994        |
| May 31, 1994                           | June 7, 1994                 | 24                     | June 17, 1994    | Dec. 6, 1994                           | Dec. 13, 1994                | 51                     | Dec. 23, 1994        |
| June 7, 1994                           | June 14, 1994                | 25                     | June 24, 1994    | Dec. 13, 1994                          | Dec. 20, 1994                | 52                     | Dec. 30, 1994        |
| June 14, 1994                          | June 21, 1994                | 26                     | July 1, 1994     | Dec. 20, 1994                          | Dec. 27, 1994                | 1                      | Jan. 6, 1995         |
| June 21, 1994                          | June 28, 1994                | 27                     | July 8, 1994     | Dec. 27, 1994                          | Jan. 3, 1995                 | 2                      | Jan. 13, 1995        |

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).



## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL2) Code Citation: 35 Ill. Adm. Code 7203) Section Numbers: Proposed Action:

720.110 Amended

4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 111½, pars. 22.4 and 1027 [415 ILCS 5/22.4 and 5/27].5) A Complete Description of the Subjects and Issues Involved:

A more detailed description is contained in the Board's opinion of December 16, 1993 in R93-16, which opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111½, par. 1022.4(a) [415 ILCS 5/22.4(a)]) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period January 1 through June 30, 1993. During this time, U.S. EPA undertook the following actions:

- 58 Fed. Reg. 8658 (Feb. 16, 1993) Corrective Action Management Unit (CAMU) and Temporary Unit (TU) regulations applicable to RCRA Subtitle C corrective actions
- 58 Fed. Reg. 14317 (Mar. 17, 1993) Amendments to land disposal restrictions for Third Third wastes.
- 58 Fed. Reg. 26420 (May 3, 1993) Technical amendments to the used and waste oil management standards
- 58 Fed. Reg. 28506 (May 14, 1993) Renewal of case-by-case capacity variance from the land disposal restrictions for hazardous debris
- 58 Fed. Reg. 29860 (May 24, 1993) Land disposal restrictions for ignitable and corrosive wastes whose treatment standards were vacated
- These federal actions have resulted in amendments to 35 Ill. Adm. Code 702, 703, 720, 724, 725, 728, and 739 in this update docket.

In particular, the amendments to Part 720 affect the definitions Section 720.110, which applies for the purposes of 35 Ill. Adm. Code 720 through 726 and 729, to correspond with changes made by U.S. EPA as part of the corrective action management unit rules. This means the addition of a definition of "corrective action management unit" and the amendment of the existing definitions of "disposal facility", "facility", "landfill", "miscellaneous unit", and "remediation waste". Additionally, the Board uses this opportunity to amend the definition of "landfill" to restore language relating to salt bed formations that was inadvertently omitted although it appears in the pre-existing federal base text. We also use

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

this opportunity to begin a shift in style; we have begun to refer to "U.S. EPA", rather than "EPA" or "USEPA", for greater clarity.

6) Will this proposed rule replace an emergency rule currently in effect? No.7) Does this rulemaking contain an automatic repeal date? No.8) Does these proposed amendments contain incorporations by reference?

No. Although the existing RCRA Subtitle C hazardous waste regulations include several incorporations by reference and Section 720.111 is the central location for all incorporations for all of 35 Ill. Adm. Code 720 through 726 and 728, none of the incorporations have been amended in this proceeding.

9) Are there any other amendments pending on this Part? No.10) Statement of Statewide Policy Objectives:

This rulemaking is mandated by Section 22.4(a) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 20 of that Act. This rulemaking imposes mandates on units of local government only to the extent that they may be involved in the generation, transportation, treatment, storage or disposal of hazardous waste.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R93-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: December 20, 1993.
- B) Types of small businesses affected:

The existing rules and proposed amendments affect small businesses which generate, transport, treat, store or dispose of hazardous waste. In actuality, the corrective action management unit rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

C) Reporting, bookkeeping or other procedures required for compliance:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. In actuality, the corrective action management unit rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

D) Types of professional skills necessary for compliance:

Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. In actuality, the corrective action management unit rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

The full text of the proposed amendments begins on the next page:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 720  
HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

## SUBPART A: GENERAL PROVISIONS

Section  
720.101 Purpose, Scope and Applicability  
720.102 Availability of Information; Confidentiality of Information  
720.103 Use of Number and Gender

## SUBPART 8: DEFINITIONS

Section  
720.110 Definitions  
720.111 References

## SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section  
720.120 Rulemaking  
720.121 Alternative Equivalent Testing Methods  
720.122 Waste Delisting  
720.130 Procedures for Solid Waste Determinations  
720.131 Solid Waste Determinations  
720.132 Boiler Determinations  
720.133 Procedures for Determinations  
720.140 Additional regulation of certain hazardous waste Recycling Activities on a case-by-case Basis  
720.141 Procedures for case-by-case regulation of hazardous waste Recycling Activities

## 720. Appendix A Overview of 40 CFR, Subtitle C Regulations

**AUTHORITY:** Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 1114, pars. 1022.4 and 1027 [415 ILCS 5/22.4 and 5/27]).

**SOURCE:** Adopted in R81-22, 43 PC8 427, at 5 Ill. Reg. 9781, effective as noted in 35 Ill. Adm. Code 700.106; amended and codified in R81-22, 45 PC8 317, at 6 Ill. Reg. 4828, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-19 at 7 Ill. Reg. 14015, effective Oct. 12, 1983; amended in R84-9, 53 PCB 131 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

17 Ill. Reg. 20545, effective November 22, 1993, amended in R93-16 at  
Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: DEFINITIONS

## Section 720.110 Definitions

When used in 35 Ill. Adm. Code 720 through 726 and 728 only, the following terms have the meanings given below:

"Aboveground tank" means a device meeting the definition of "tank" that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 et seq.)

"Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Agency receives certification of final closure.

"Active portion" means that portion of a facility where treatment, storage or disposal operations are being or have been conducted after May 19, 1980, and which is not a closed portion. (See also "closed portion" and "inactive portion".)

"Administrator" means the Administrator of the U.S. Environmental Protection Agency or the Administrator's designee.

"Agency" means the Illinois Environmental Protection Agency.

"Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves and pumps, that is used to distribute, meter or control the flow of hazardous waste from its point of generation to storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

"Aquifer" means a geologic formation, group of formations or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

"Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

"Board" means the Illinois Pollution Control Board.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

The unit must have physical provisions for recovering and

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exporting thermal energy in the form of steam, heated fluids or heated gases; and the unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

The unit is one which the Board has determined, on a case-by-case basis, to be a boiler, after considering the standards in Section 720.132.

"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Certification" means a statement of professional opinion based upon knowledge and belief.

"Closed Portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion".)

"Component" means either the tank or ancillary equipment of a tank system.

"Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

"Container" means any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

"Containment Building" means a hazardous waste management unit



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that is used to store or treat hazardous waste under the provisions of 35 Ill. Adm. Code 724.Subpart DD and 35 Ill. Adm. Code 725.Subpart DD.

"Contingency plan" means a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

"Corrective action management unit" or "CAMU" means an area within a facility that is designated by the Agency under 35 Ill. Adm. Code 724.Subpart S for the purpose of implementing corrective action requirements under 35 Ill. Adm. Code 724.201 and RCRA section 3008(h). A CAMU shall only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.

BOARD NOTE: U.S. EPA must also designate a CAMU until it grants this authority to the Agency. See the note following 35 Ill. Adm. Code 724.652.

"Corrosion expert" means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"Designated facility" means a hazardous waste treatment, storage or disposal facility,

Which:

Has received a RCRA permit (or interim status) pursuant to 35 Ill. Adm. Code 702, 703 and 705;

Has received a RCRA permit from U.S. EPA pursuant to 40 CFR 124 and 270 (1991);

Has received a RCRA permit from a state authorized by U.S. EPA pursuant to 40 CFR 271 (1991); or

Is regulated under 35 Ill. Adm. Code 721.106(c)(2) or 266.Subpart F; and

Which has been designated on the manifest by the generator pursuant to 35 Ill. Adm. Code 722.120.

If a waste is destined to a facility in a state, other than Illinois, which has been authorized by U.S. EPA pursuant to 40 CFR 271, but which has not yet obtained authorization to regulate that waste as hazardous, then the designated facility must be a facility allowed by the receiving state to accept such waste.

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"Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids or other materials.

"Director" means the Director of the Illinois Environmental Protection Agency.

"Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit (CAMU) into which remediation wastes are placed.

"Drip pad" means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation and surface water run-on to an associated collection system at wood preserving plants.

"Elementary neutralization unit" means a device which:

Is used for neutralizing wastes which are hazardous only because they exhibit the corrosivity characteristic defined in 35 Ill. Adm. Code 721.122 or are listed in 35 Ill. Adm. Code 721.Subpart D only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle or vessel in this Section.

"EPA" or "U.S. EPA" or "USEPA" means United States Environmental Protection Agency.

"EPA hazardous waste number" or "U.S. EPA hazardous waste number" or "USEPA hazardous waste number" means the number assigned by EPA to each hazardous waste listed in 35 Ill. Adm. Code 721.Subpart D and to each characteristic identified in 35 Ill. Adm. Code 721.Subpart C.

"EPA identification number" or "U.S. EPA identification number" or "USEPA identification number" means the number assigned by U.S. EPA pursuant to 35 Ill. Adm. Code 722 through 725 to each generator, transporter and treatment, storage or disposal facility.

"EPA region" means the states and territories found in any one of the following ten regions:

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Region I: Maine, Vermont, New Hampshire, Massachusetts, Connecticut and Rhode Island

Region II: New York, New Jersey, Commonwealth of Puerto Rico and the U.S. Virgin Islands

Region III: Pennsylvania, Delaware, Maryland, West Virginia, Virginia and the District of Columbia

Region IV: Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina and Florida

Region V: Minnesota, Wisconsin, Illinois, Michigan, Indiana and Ohio

Region VI: New Mexico, Oklahoma, Arkansas, Louisiana and Texas

Region VII: Nebraska, Kansas, Missouri and Iowa

Region VIII: Montana, Wyoming, North Dakota, South Dakota, Utah and Colorado

Region IX: California, Nevada, Arizona, Hawaii, Guam, American Samoa and Commonwealth of the Northern Mariana Islands

Region X: Washington, Oregon, Idaho and Alaska

"Equivalent method" means any testing or analytical method approved by the Board pursuant to Section 720.120.

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if the owner or operator had obtained the federal, state and local approvals or permits necessary to begin physical construction and either:

A continuous on-site, physical construction program had begun or

The owner or operator had entered into contractual obligations -- which could not be cancelled or modified without substantial loss -- for physical construction of the facility to be completed within a reasonable time.

"Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, state and local approvals or

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permits necessary to begin physical construction of the site or installation of the tank system and if either

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations -- which cannot be canceled or modified without substantial loss -- for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"Facility" means:

All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

For the purpose of implementing corrective action under 35 Ill. Adm. Code 264.201, all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective action under RCRA Section 3008(h).

"Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under 35 Ill. Adm. Code 724 and 725 are no longer conducted at the facility unless subject to the provisions of 35 Ill. Adm. Code 722.134.

"Federal agency" means any department, agency or other instrumentality of the federal government, any independent agency or establishment of the federal government including any government corporation and the Government Printing Office.

"Federal, state and local approvals or permits necessary to begin physical construction" means permits and approvals required under federal, state or local hazardous waste control statutes, regulations or ordinances.

"Food-chain crops" means tobacco, crops grown for human consumption and crops grown for feed for animals whose products are consumed by humans.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

"Generator" means any person, by site, whose act or process produce hazardous waste identified or listed in 35 Ill. Adm. Code



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721 or whose act first causes a hazardous waste to become subject to regulation.

"Groundwater" means water below the land surface in a zone of saturation.

"Hazardous waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste constituent" means a constituent which caused the hazardous waste to be listed in 35 Ill. Adm. Code 721. Subpart D, or a constituent listed in 35 Ill. Adm. Code 721.124.

"Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

"Inactive portion" means that portion of a facility which is not operated after November 19, 1980. (See also "active portion" and "closed portion".)

"Incinerator" means any enclosed device that:

Uses controlled flame combustion and neither:

Meets the criteria for classification as a boiler, sludge dryer or carbon regeneration unit, nor

Is listed as an industrial furnace; or

Meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a hazardous waste which is suitable for:

Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes or gases or flammable fumes or gases.

(See 35 Ill. Adm. Code 725. Appendix E for examples.)

"Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or

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energy:

Cement kilns

Lime kilns

Aggregate kilns

Phosphate kilns

Coke ovens

Blast furnaces

Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces)

Titanium dioxide chloride process oxidation reactors

Methane reforming furnaces

Pulping liquor recovery furnaces

Combustion devices used in the recovery of sulfur values from spent sulfuric acid

Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20%, as generated.

Any other such device as the Agency determines to be an "Industrial Furnace" on the basis of one or more of the following factors:

The design and use of the device primarily to accomplish recovery of material products;

The use of the device to burn or reduce raw materials to make a material product;

The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

The use of the device in common industrial practice to produce a material product; and



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Other relevant factors.

"Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

"Infrared incinerator" means any enclosed device which uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Inground tank" means a device meeting the definition of "tank" whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"In operation" refers to a facility which is treating, storing or disposing of hazardous waste.

"Injection well" means a well into which fluids are being injected. (See also "underground injection".)

"Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

"Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

"Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, or a cave, or a corrective action management unit (CAMU).

"Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

"LDS" means leak detection system.

"Leachate" means any liquid, including any suspended components in

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the liquid, that has percolated through or drained from hazardous waste.

"Liner" means a continuous layer of natural or manmade materials beneath or on the sides of a surface impoundment, landfill or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents or leachate.

"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

"Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous waste.

"Manifest" means the shipping document originated and signed by the generator which contains the information required by 35 Ill. Adm. Code 722-Subpart B.

"Manifest document number" means the U.S. EPA twelve digit identification number assigned to the generator plus a unique five digit document number assigned to the manifest by the generator for recording and reporting purposes.

"Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

"Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored or disposed of and which is not a container, tank, tank system, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 35 Ill. Adm. Code 730, containment building, corrective action management unit (CAMU), or a unit eligible for a research, development and demonstration permit under 35 Ill. Adm. Code 703.231.

"Movement" means that hazardous waste transported to a facility in an individual vehicle.

"New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced, after November 19, 1980. (See also "Existing hazardous waste management facility".)

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of

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hazardous waste and for which installation commenced after July 14, 1986; except, however, for purposes of 35 Ill. Adm. Code 724.293(g)(2) and 725.293(g)(2), a new tank system is one for which construction commences after July 14, 1986. (See also "existing tank system.")

"On-ground tank" means a device meeting the definition of "tank" that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surfaces so that the external tank bottom cannot be visually inspected.

"On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

"Open burning" means the combustion of any material without the following characteristics:

Control of combustion air to maintain adequate temperature for efficient combustion;

Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

Control of emission of the gaseous combustion products.

(See also "incineration" and "thermal treatment".)

"Operator" means the person responsible for the overall operation of a facility.

"Owner" means the person who owns a facility or part of a facility.

"Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 35 Ill. Adm. Code 724 or 725 at a facility which contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile or other hazardous waste management unit, while other units of the same facility continue to operate.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state or any interstate body.

"Personnel" or "facility personnel" means all persons who work at or oversee the operations of a hazardous waste facility and whose actions or failure to act may result in noncompliance with the

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requirements of 35 Ill. Adm. Code 724 or 725.

"Pile" means any noncontainerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage, and that is not a containment building.

"Plasma arc incinerator" means any enclosed device which uses a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Point source" means any discernible, confined and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

"Publicly owned treatment works" or "POTW" is as defined in 35 Ill. Adm. Code 310.110.

"Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as demonstrated by state registration, professional certifications or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant fate and transport.

BOARD NOTE: "State registration" includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to Ill. Rev. Stat. 1991, ch. 111, par. 5201 (225 ILCS 325/1) and 68 Ill. Adm. Code 1380. "Professional certification" includes, but is not limited to, certification under the certified ground water professional program of the National Ground Water Association.

"Regional Administrator" means the Regional Administrator for the EPA Region in which the facility is located or the Regional Administrator's designee.

"Remediation waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that contain listed hazardous wastes or which themselves exhibit a hazardous waste characteristic which are managed for the purpose of implementing corrective action requirements under 35 Ill. Adm. Code 724.201 and RCRA Section 106(e)(1). For a given facility, remediation wastes may originate only from within the facility boundary, but may include waste managed in implementing RCRA sections 3004(e) or 3008(a)(1) for releases beyond the facility boundary.

"Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole.



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"Replacement unit" means a landfill, surface impoundment or waste pile unit from which all or substantially all of the waste is removed, and which is subsequently reused to treat, store or dispose of hazardous waste. "Replacement unit" does not include a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure or corrective action plan approved by U.S. EPA or the Agency.

"Runoff" means any rainwater, leachate or other liquid that drains over land from any part of a facility.

"Renon" means any rainwater, leachate or other liquid that drains over land onto any part of a facility.

"Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

"SIC Code" means Standard Industrial Code as defined in Standard Industrial Classification Manual, incorporated by reference in Section 720.111.

"Sludge" means any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

"Sludge dryer" means any enclosed thermal treatment device which is used to dehydrate sludge and which has a total thermal input, excluding the heating value of the sludge itself, of 2500 Btu/lb or less of sludge treated on a wet weight basis.

"Small Quantity Generator" means a generator which generates less than 1000 kg of hazardous waste in a calendar month.

"Solid waste" means a solid waste as defined in 35 Ill. Adm. Code 721.102.

"Sorbet" means a material that is used to soak up free liquids by either adsorption or absorption, or both. "Sorb" means to either adsorb or absorb, or both.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment or disposal facilities; except that, as used in the landfill, surface impoundment and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

"State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

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"Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of or stored elsewhere.

"Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, manmade excavation or diked area formed primarily of earthen materials (although it may be lined with manmade materials) which is designed to hold an accumulation of liquid wastes or wastes containing free liquids and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds and lagoons.

"Tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

"Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

"Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation and microwave discharge. (See also "incinerator" and "open burning".)

"Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

"Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

"Transportation" means the movement of hazardous waste by air, rail, highway or water.

"Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

"Treatability study" means:

A study in which a hazardous waste is subjected to a treatment process to determine:



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Whether the waste is amenable to the treatment process.

What pretreatment (if any) is required.

The optimal process conditions needed to achieve the desired treatment.

The efficiency of a treatment process for a specific waste or wastes. Or,

The characteristics and volumes of residuals from a particular treatment process.

Also included in this definition for the purpose of 35 Ill. Adm. Code 721.104(e) and (f) exemptions are liner compatibility, corrosion and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of hazardous waste.

"Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste or so as to render such waste non-hazardous or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed or immobilized.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "injection well".)

"Underground tank" means a device meeting the definition of "tank" whose entire surface area is totally below the surface of and covered by the ground.

"Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

"United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

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"Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

"U.S. EPA" or "USEPA" means United States Environmental Protection Agency.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

"Wastewater treatment unit" means a device which:

Is part of a wastewater treatment facility which has an NPDES permit pursuant to 35 Ill. Adm. Code 309 or a pretreatment permit or authorization to discharge pursuant to 35 Ill. Adm. Code 310; and

Receives and treats or stores an influent wastewater which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

Meets the definition of tank or tank system in this Section.

"Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

"Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

"Well injection" (See "underground injection").

"Zone of engineering control" means an area under the control of the owner or operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE2) Code Citation: 35 Ill. Adm. Code 7213) Section Numbers: Proposed Action:

721.104, 721.105 Amended

4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 111½, pars. 22.4 and 1027 [415 ILCS 5/22.4 and 5/27].5) A Complete Description of the Subjects and Issues Involved:

A more detailed description is contained in the Board's opinion of December 16, 1993 in R93-16, which opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111½, par. 1022.4(a) [415 ILCS 5/22.4(a)]) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period January 1 through June 30, 1993. During this time, U.S. EPA undertook the following actions:

58 Fed. Reg. 8658 (Feb. 16, 1993) Corrective Action Management Unit (CAMU) and Temporary Unit (TU) regulations applicable to RCRA Subtitle C corrective actions

58 Fed. Reg. 14317 (Mar. 17, 1993) Amendments to land disposal restrictions for Third Third wastes.

58 Fed. Reg. 26420 (May 3, 1993) Technical amendments to the used and waste oil management standards

58 Fed. Reg. 28506 (May 14, 1993) Renewal of case-by-case capacity variance from the land disposal restrictions for hazardous debris

58 Fed. Reg. 29860 (May 24, 1993) Land disposal restrictions for ignitable and corrosive wastes whose treatment standards were vacated

These federal actions have resulted in amendments to 35 Ill. Adm. Code 702, 703, 720, 724, 725, 728, and 739 in this update docket.

In particular, the amendments to Part 721 are made to accommodate the revisions made by U.S. EPA as part of the corrective action management unit rules and as part of the used and waste oil corrections. The amendments to Section 721.104(b)(14) pertain to the corrective action management unit rules; they include renumbering two subsections formerly reserved by U.S. EPA and adding an exclusion of used oil distillation bottoms used in making asphalt products from the definition of solid waste. Those to 721.105 pertain to the used and waste oil regulations; they subject used oil generated by certain conditionally exempt generators that is mixed with hazardous waste to the whole of 35 Ill.

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Adm. Code 739, rather than only 35 Ill. Adm. Code 739.Subpart C, if it is burned for energy recovery. The Board has also changed the usage "EPA" and "USEPA" to "U.S. EPA" for greater clarity.

6) Will this proposed rule replace an emergency rule currently in effect? No.

7) Does this rulemaking contain an automatic repeal date? No.

8) Does these proposed amendments contain incorporations by reference? No.

9) Are there any other amendments pending on this Part? No.

10) Statement of Statewide Policy Objectives:

This rulemaking is mandated by Section 22.4(a) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 20 of that Act. This rulemaking imposes mandates on units of local government only to the extent that they may be involved in the generation, transportation, treatment, storage or disposal of hazardous waste.

11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R93-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: December 20, 1993.

B) Types of small businesses affected:

The existing rules and proposed amendments affect small businesses which generate, transport, treat, store or dispose of hazardous waste. In actuality, the corrective action management unit rules and used and waste oil rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action or managing used and waste oil for recycling, although they do impose distinct requirements to qualify for the exception from the General hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

C) Reporting, bookkeeping or other procedures required for compliance:

The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and

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maintenance of operating records. In actuality, the corrective action management unit rules and used and waste oil rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action or managing used and waste oil for recycling, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

D) Types of professional skills necessary for compliance:

Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. In actuality, the corrective action management unit rules and used and waste oil rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action or managing used and waste oil for recycling, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

The full text of the proposed amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

## PART 721

## IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

## SUBPART A: GENERAL PROVISIONS

Section  
721.101  
721.102  
721.103  
721.104  
721.105  
721.106  
721.107  
721.108

Purpose and Scope  
Definition of Solid Waste  
Definition of Hazardous Waste  
Exclusions  
Special Requirements for Hazardous Waste Generated by Small Quantity Generators  
Requirements for Recyclable Materials  
Residues of Hazardous Waste in Empty Containers  
PCB Wastes Regulated under TSCA

## SUBPART B: CRITERIA FOR IDENTIFYING THE CHARACTERISTICS OF HAZARDOUS WASTE AND FOR LISTING HAZARDOUS WASTES

Criteria for Identifying the Characteristics of Hazardous Waste  
Criteria for Listing Hazardous Waste

## SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

Section  
721.120  
721.121  
721.122  
721.123  
721.124

General  
Characteristic of Ignitability  
Characteristic of Corrosivity  
Characteristic of Reactivity  
Toxicity Characteristic

## SUBPART D: LISTS OF HAZARDOUS WASTE

Section  
721.130  
721.131  
721.132  
721.133  
721.135

General  
Hazardous Wastes From Nonspecific Sources  
Hazardous Waste from Specific Sources  
Discarded Commercial Chemical Products, Off-Specification Species, Container Residues and Spill Residues Thereof  
Wood Preserving Wastes

721.Appendix A Representative Sampling Methods  
721.Appendix B Method 1311 Toxicity Characteristic Leaching Procedure (TCLP)

721.Appendix C Chemical Analysis Test Methods  
Table A Analytical Characteristics of Organic Chemicals (Repealed)  
Table B Analytical Characteristics of Inorganic Species (Repealed)  
Table C Sample Preparation/Sample Introduction Techniques (Repealed)  
721.Appendix G Basis for Listing Hazardous Wastes  
721.Appendix H Hazardous Constituents  
721.Appendix I Wastes Excluded under Section 720.120 and 720.122  
Table A Wastes Excluded from Non-Specific Sources  
Table B Wastes Excluded from Specific Sources  
Table C Wastes Excluded From Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues Thereof



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- Table D Wastes Excluded by Adjusted Standard  
721.Appendix J Method of Analysis for Chlorinated Dibenzo-p-Dioxins and  
Dibenzofurans  
721.Appendix Z Table to Section 721.102

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 1114, pars. 1022.4 and 1027 [415 ILCS 5/22.4 and 27]).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective as noted in 35 Ill. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-18, 51 PCB 31, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19, 53 PCB 131, at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 PCB 247, at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9, at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 17 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

## Section 721.104 Exclusions

- a) Materials which are not solid wastes. The following materials are not solid wastes for the purpose of this Part:

## 1) Sewage:

- A) Domestic sewage; and  
B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.

## 2) Industrial wastewater discharges that are point source

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discharges with NPDES permits issued by the Agency pursuant to Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code 309.

BOARD NOTE: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

Irrigation return flows.

Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)

Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.

Pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless accumulated speculatively as defined in Section 721.101(c);

Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in Section 721.101(c).

Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process, provided:

A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces or incinerators);

C) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed; and

D) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

Wood preserving wastes.

A) Spent wood preserving solutions that have been used and are reclaimed and reused for their original intended purpose; and

B) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

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- 10) Hazardous waste number K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any waste from the coke by-products processes which are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or the tar refining processes, or mixed with coal.

- 11) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

- b) Solid wastes which are not hazardous wastes. The following solid waste are not hazardous wastes:

- 1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel) or reused. "Household waste" means any waste material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of or otherwise managing hazardous wastes for the purposes of regulation under this Part, if such facility:

- A) Receives and burns only:
- i) Household waste (from single and multiple dwellings, hotels, motels and other residential sources) and
  - ii) Solid waste from commercial or industrial sources that does not contain hazardous waste; and
- B) Such facility does not accept hazardous waste and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.
- 2) Solid wastes generated by any of the following and which are returned to the soil as fertilizers:
- A) The growing and harvesting of agricultural crops.
  - B) The raising of animals, including animal manures.

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- 3) Mining overburden returned to the mine site.
- 4) Fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

- 6) Chromium wastes:

- A) Wastes which fail the test for the toxicity characteristic (Sections 721.124 and 721.124 Appendix B) because chromium is present or are listed in Subpart D of this Part due to the presence of chromium, which do not fail the test for the toxicity characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

- i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and
  - ii) The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
  - iii) The waste is typically and frequently managed in non-oxidizing environments.
- B) Specific wastes which meet the standard in subsections (b)(6)(A)(i), (ii) and (iii), above, (so long as they do not fail the test for the toxicity characteristic for any other constituent and do not exhibit any other characteristic) are:
- i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.
  - ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.
  - iii) Buffing dust generated by the following

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- subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.
- iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.
- v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.
- vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.
- vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.
- viii) Wastewater treatment sludges from the production of titanium dioxide pigment using chromium-bearing ores by the chloride process.
- 7) Solid waste from the extraction, beneficiation and processing of ores and minerals (including coal, phosphate rock and overburden from the mining of uranium ore), except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste. For purposes of this subsection, beneficiation of ores and minerals is restricted to the following activities: crushing, grinding, washing, dissolution, crystallization, filtration, sorting, sizing, drying, sintering, pelletizing, briquetting, calcining to remove water or carbon dioxide, roasting, autoclaving or chlorination in preparation for leaching (except where the roasting or autoclaving or chlorination)/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing), gravity concentration, magnetic separation, electrostatic separation, flotation, ion exchange, solvent extraction, electrowinning, precipitation, amalgamation, and heap, dump, vat tank and in situ leaching. For the purposes of this subsection, solid waste from the processing of ores and minerals includes only the following wastes:

- A) Slag from primary copper processing;
- B) Slag from primary lead processing;

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- C) Red and brown muds from bauxite refining;
- D) Phosphogypsum from phosphoric acid production;
- E) Slag from elemental phosphorus production;
- F) Gasifier ash from coal gasification;
- G) Process wastewater from coal gasification;
- H) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
- I) Slag tailings from primary copper processing;
- J) Fluorogypsum from hydrofluoric acid production;
- K) Process wastewater from hydrofluoric acid production;
- L) Air pollution control dust/sludge from iron blast furnaces;
- M) Iron blast furnace slag;
- N) Treated residue from roasting/leaching of chrome ore;
- O) Process wastewater from primary magnesium processing by the anhydrous process;
- P) Process wastewater from phosphoric acid production;
- Q) Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;
- R) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
- S) Chloride processing waste solids from titanium tetrachloride production; and,
- T) Slag from primary zinc smelting.
- 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 9) Solid waste which consists of discarded arsenical-treated wood or wood products which fails the test for the toxicity characteristic for hazardous waste codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.
- 10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of section 721.124 (hazardous waste codes D018 through D043 only) and are



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subject to corrective action regulations under 35 Ill. Adm. Code 731.

- 11) Injected groundwater that is hazardous only because it exhibits the toxicity characteristic (U.S. EPA hazardous waste codes D018 through D024 only) in Section 721.124 that is reinjected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals and petroleum bulk plants, petroleum pipelines and petroleum spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such as petroleum refineries, marketing terminals and bulk plants, until October 2, 1991. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:

- A) Operations are performed pursuant to a "free product removal report" pursuant to 35 Ill. Adm. Code 731.164; and
- B) A copy of the "free product removal report" has been submitted to:

Characteristics Section (OS-333)  
U.S. EPA  
401 M Street, SW  
Washington, D.C. 20460

- 12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems, which use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

~~13) This subsection should contain the equivalent of 40 CFR 261.4(b)(13), which USEPA has not yet adopted.~~

~~14) This subsection should contain the equivalent of 40 CFR 261.4(b)(14), which USEPA has not yet adopted.~~

- 15) Non-terrestrial used oil filters which are not mixed with wastes listed in Subpart D of this Part, if these oil filters have been gravity hot-drained using one of the following methods:

- A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
- B) Hot-draining and crushing;
- C) Dismantling and hot-draining; or,

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- D) Any other equivalent hot-draining method which will remove used oil.

14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

- C) Hazardous wastes which are exempted from certain regulations. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, 705 and 722 through 725 and 728 or to the notification requirements of Section 3010 of RCRA until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

d) Samples

- 1) Except as provided in subsection (d)(2) below, a sample of solid waste or a sample of water, soil or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, 705 and 722 through 728. The sample qualifies when:

- A) The sample is being transported to a laboratory for the purpose of testing; or
- B) The sample is being transported back to the sample collector after testing; or
- C) The sample is being stored by the sample collector before transport to a laboratory for testing; or
- D) The sample is being stored in a laboratory before testing; or

- E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or
- F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).

- 2) In order to qualify for the exemption in subsection (d)(1)(A) and (B) above, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

- A) Comply with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS) or any other applicable shipping requirements; or

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- B) Comply with the following requirements if the sample collector determines that DOT, USPS or other shipping requirements do not apply to the shipment of the sample:

- i) Assure that the following information accompanies the sample: The sample collector's name, mailing address and telephone number; the laboratory's name, mailing address and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample.
- ii) Package the sample so that it does not leak, spill or vaporize from its packaging.

- 3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1) above.

## e) Treatability study samples.

- 1) Except as is provided in subsection (e)(2) below, persons who generate or collect samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act. Nor are such samples included in the quantity determinations of Section 721.105 and 35 Ill. Adm. Code 722.134(d) when:

- A) The sample is being collected and prepared for transportation by the generator or sample collector; or,
- B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or
- C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

- 2) The exemption in subsection (e)(1) above is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:

- A) The generator or sample collector uses (in "treatability studies") no more than 1000 kg of any non-acute hazardous waste, 1 kg of acute hazardous waste or 250 kg of soils, water or debris contaminated with acute hazardous waste for each process being evaluated for each generated wastestream; and
- B) The mass of each shipment does not exceed 1000 kg of non-acute hazardous waste, 1 kg of acute hazardous

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waste or 250 kg of soils, water or debris contaminated with acute hazardous waste; and

- C) The sample must be packaged so that it does not leak, spill or vaporize from its packaging during shipment and the requirements of subsections (e)(2)(C)(i) or (ii), below, are met.

- i) The transportation of each sample shipment complies with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS) or any other applicable shipping requirements; or

- ii) If the DOT, USPS or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address and telephone number of the originator of the sample; the name, address and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description of the sample, including its U.S. EPA hazardous waste number.

- D) The sample is shipped to a laboratory or testing facility which is exempt under subsection (f) below, or has an appropriate RCRA permit or interim status.

- E) The generator or sample collector maintains the following records for a period ending 3 years after completion of the treatability study:

- i) Copies of the shipping documents;
- ii) A copy of the contract with the facility conducting the treatability study;
- iii) Documentation showing: The amount of waste shipped under this exemption; the name, address and U.S. EPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and, whether or not unused samples and residues were returned to the generator.

- F) The generator reports the information required in subsection (e)(2)(E)(iii) above in its report under 35 Ill. Adm. Code 722.141.

- 3) The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsection (e)(2)(A) above, for up to an additional 500 kg of any non-acute hazardous waste, 1 kg of acute hazardous waste and 250 kg of soils, water or debris contaminated with acute hazardous waste, to conduct further treatability study evaluation when: There has been an equipment or mechanical failure during the conduct of the treatability study; there is need to verify the results of a previously conducted



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treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or, there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment. The additional quantities allowed are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (F), above. The generator or sample collector must apply to the Agency and provide in writing the following information:

- A) The reason why the generator or sample collector requires additional quantity of sample for the treatability study evaluation and the additional quantity needed;
- B) Documentation accounting for all samples of hazardous waste from the wastestream which have been sent for or undergone treatability studies, including the date each previous sample was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;
- C) A description of the technical modifications or change in specifications which will be evaluated and the expected results;
- D) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment have been made to protect against further breakdowns; and,
- E) Such other information as the Agency determines is necessary.
- 4) Final Agency determinations pursuant to this subsection may be appealed to the Board.
- f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 705, 722 through 726, and 728, or to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act, provided that the requirements of subsections (f)(1) through (f)(11), below, are met. A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11), below. Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11), below, apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.
- 1) No less than 45 days before conducting treatability studies,

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the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection.

- 2) The laboratory or testing facility conducting the treatability study has a U.S. EPA identification number.
- 3) No more than a total of 250 kg of "as received" hazardous waste is subjected to initiation of treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.
- 4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 1000 kg, the total of which can include 500 kg of soils, water or debris contaminated with acute hazardous waste or 1 kg of acute hazardous waste. This quantity limitation does not include:
  - A) Treatability study residues; and,
  - B) Treatment materials (including nonhazardous solid waste) added to "as received" hazardous waste.
- 5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs.
- 6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.
- 7) The facility maintains records for 3 years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
  - A) The name, address and U.S. EPA identification number of the generator or sample collector of each waste sample;
  - B) The date the shipment was received;
  - C) The quantity of waste accepted;
  - D) The quantity of "as received" waste in storage each day;
  - E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
  - F) The date the treatability study was concluded;
  - G) The date any unused sample or residues generated from



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the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the U.S. EPA identification number.

- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending 3 years from the completion date of each treatability study.
- 9) The facility prepares and submits a report to the Agency by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:
  - A) The name, address and U.S. EPA identification number of the facility conducting the treatability studies;
  - B) The types (by process) of treatability studies conducted;
  - C) The names and addresses of persons for whom studies have been conducted (including their U.S. EPA identification numbers);
  - D) The total quantity of waste in storage each day;
  - E) The quantity and types of waste subjected to treatability studies;
  - F) When each treatability study was conducted;
  - G) The final disposition of residues and unused sample from each treatability study;
- 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703 and 721 through 728, unless the residues and unused samples are returned to the sample originator under the subsection (e) exemption above.
- 11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators

- a) A generator is a conditionally exempt small quantity generator in a calendar month if it generates no more than 100 kilograms of hazardous waste in that month. 35 Ill. Adm. Code 700 explains the relation of this to the 100 kg/mo exception of 35 Ill. Adm. Code

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- b) Except for those wastes identified in subsections (e), (f), (g) and (j) below, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under 35 Ill. Adm. Code 702, 703, 705 and 722 through 726 and 728, and the notification requirements of Section 3010 of Resource Conservation and Recovery Act, provided the generator complies with the requirements of subsections (f), (g) and (j) below.
- c) Hazardous waste that is not subject to regulation or that is subject only to 35 Ill. Adm. Code 722.111, 722.112, 722.140(c) and 722.141 is not included in the quantity determinations of this Part and 35 Ill. Adm. Code 722 through 726 and 728, and is not subject to any requirements of those Parts. Hazardous waste that is subject to the requirements of Section 721.106(b) and (c) and 35 Ill. Adm. Code 726.Subparts C, D and F is included in the quantity determinations of this Part and is subject to the requirements of this Part and 35 Ill. Adm. Code 722 through 726 and 728.
- d) In determining the quantity of hazardous waste it generates, a generator need not include:
  - 1) Hazardous waste when it is removed from on-site storage; or
  - 2) Hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste so long as the hazardous waste that is treated was counted once; or,
  - 3) Spent materials that are generated, reclaimed and subsequently reused on-site, so long as such spent materials have been counted once.
- e) If a generator generates acute hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acute hazardous waste are subject to full regulation under 35 Ill. Adm. Code 702, 703, 705 and 722 through 726 and 728, and the notification requirements of Section 3010 of the Resource Conservation and Recovery Act:
  - 1) A total of one kilogram of acute hazardous wastes listed in Sections 721.131, 721.132, or 721.133(e); or
  - 2) A total of 100 kilograms of any residue or contaminated soil, waste or other debris resulting from the clean-up of a spill, into or on any land or water, of any acute hazardous wastes listed in Sections 721.131, 721.132, or 721.133(e).
- f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in subsection (e)(1) or (e)(2) above to be excluded from full regulation under this section, the generator must comply with the following requirements:

BOARD NOTE: "Full regulation" means those regulations applicable to generators of greater than 1000 kg of non-acute hazardous waste in a calendar month.

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- 1) 35 Ill. Adm. Code 722.111.
- 2) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities greater than set forth in subsections (e)(1) or (e)(2) above, all of those accumulated wastes are subject to regulation under 35 Ill. Adm. Code 702, 703, 705 and 722 through 726 and 728, and the applicable notification requirements of Section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(a), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.
- 3) A conditionally exempt small quantity generator may either treat or dispose of its acute hazardous waste in an on-site facility, or ensure delivery to an off-site storage, treatment or disposal facility, either of which, if located in the United States, is:
  - A) Permitted under 35 Ill. Adm. Code 703;
  - B) In interim status under 35 Ill. Adm. Code 703 and 725;
  - C) Authorized to manage hazardous waste by a State with a hazardous waste management program approved by U.S. EPA;
  - D) Permitted, licensed or registered by a State to manage municipal or industrial solid waste; or
  - E) A facility which:
    - i) Beneficially uses or reuses or legitimately recycles or reclaims its waste; or
    - ii) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation.
- g) In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 100 kilograms of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:
  - 1) 35 Ill. Adm. Code 722.111;
  - 2) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If it accumulates at any time more than a total of 1000 kilograms of the generator's hazardous waste, all of those accumulated wastes are subject to regulation under the special provisions of 35 Ill. Adm. Code 722 applicable to generators of between 100 kg and 1000 kg of hazardous waste in a calendar month as well as the requirements of 35 Ill. Adm. Code 702, 703, 705 and 723 through 726 and 728, and the applicable notification requirements of Section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code

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## NOTICE OF PROPOSED AMENDMENTS

- 722.134(d) for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes exceed 1000 kilograms;
- 3) A conditionally exempt small quantity generator may either treat or dispose of its hazardous waste in an on-site facility, or ensure delivery to an off-site storage, treatment or disposal facility, either of which, if located in the United States, is:
  - A) Permitted under 35 Ill. Adm. Code 702 and 703;
  - B) In interim status under 35 Ill. Adm. Code 703 and 725;
  - C) Authorized to manage hazardous waste by a State with a hazardous waste management program approved by U.S. EPA under 40 CFR 271 (1986);
  - D) Permitted, licensed or registered by a State to manage municipal or industrial solid waste; or
  - E) A facility which:
    - i) Beneficially uses or re-uses, or legitimately recycles or reclaims the small quantity generator's waste; or
    - ii) Treats its waste prior to beneficial use or re-use, or legitimate recycling or reclamation.
- h) Hazardous waste subject to the reduced requirements of this Section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous wastes identified in Subpart C.
- i) If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.
- j) If a conditionally exempt small quantity generator's hazardous wastes are mixed with used oil, the mixture is subject to 35 Ill. Adm. Code 739-Subpart-G, if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending or other treatment is also so regulated if it is destined to be burned for energy recovery.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) **Heading of the Part:** INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES2) **Code Citation:** 35 Ill. Adm. Code 7253) **Section Numbers:** Proposed Action:  
725.101 Amended4) **Statutory Authority:** Ill. Rev. Stat. 1991, ch. 111½, pars. 22.4 and 1027 [415 ILCS 5/22.4 and 5/27].5) **A Complete Description of the Subjects and Issues Involved:**

A more detailed description is contained in the Board's opinion of December 16, 1993 in R93-16, which opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111½, par. 1022.4(a) [415 ILCS 5/22.4(a)]) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period January 1 through June 30, 1993. During this time, U.S. EPA undertook the following actions:

58 Fed. Reg. 8658 (Feb. 16, 1993) Corrective Action Management Unit (CAMU) and Temporary Unit (TU) regulations applicable to RCRA Subtitle C corrective actions

58 Fed. Reg. 14317 (Mar. 17, 1993) Amendments to land disposal restrictions for Third Third wastes.

58 Fed. Reg. 26420 (May 3, 1993) Technical amendments to the used and waste oil management standards

58 Fed. Reg. 28506 (May 14, 1993) Renewal of case-by-case capacity variance from the land disposal restrictions for hazardous debris

58 Fed. Reg. 29860 (May 24, 1993) Land disposal restrictions for ignitable and corrosive wastes whose treatment standards were vacated

These federal actions have resulted in amendments to 35 Ill. Adm. Code 702, 703, 720, 724, 725, 728, and 739 in this update docket.

In particular, the amendments to Part 725 are made to accommodate the revisions made by U.S. EPA as part of the corrective action management unit rules and as part of the used and waste oil corrections. The amendments to Sections 725.101(b) are related to the corrective action management rules; they make the corrective action provisions of 35 Ill. Adm. Code 724, Subpart 5 applicable to interim status facilities. Those to Section 725.101(c)(6) exempt facilities engaging in certain used oil recycling activities from Part 725 regulation, and they clarify that these exempted facilities may be subject to regulation under 35 Ill.

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Adm. Code 739. The Board has also changed the usage "EPA" and "USEPA" to "U.S. EPA" for greater clarity.

6) Will this proposed rule replace an emergency rule currently in effect? No.

7) Does this rulemaking contain an automatic repeal date? No.

8) Does these proposed amendments contain incorporations by reference? No.

9) Are there any other amendments pending on this Part? No.

10) **Statement of Statewide Policy Objectives:**

This rulemaking is mandated by Section 22.4(a) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 20 of that Act. This rulemaking imposes mandates on units of local government only to the extent that they may be involved in the generation, transportation, treatment, storage or disposal of hazardous waste.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R93-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601

12) **Initial Regulatory Flexibility Analysis:**

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: December 20, 1993.

B) Types of small businesses affected:

The existing rules and proposed amendments affect small businesses which generate, transport, treat, store or dispose of hazardous waste. In actuality, the corrective action management unit rules and used and waste oil rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action or managing used and waste oil for recycling, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

C) Reporting, bookkeeping or other procedures required for compliance:

The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. In actuality, the corrective



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action management unit rules and used and waste oil rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action or managing used and waste oil for recycling, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

D) Types of professional skills necessary for compliance:

Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. In actuality, the corrective action management unit rules and used and waste oil rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action or managing used and waste oil for recycling, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

The full text of the proposed amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

## PART 725

INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

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Purpose, Scope and Applicability  
Imminent Hazard Action

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725.101  
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## SUBPART B: GENERAL FACILITY STANDARDS

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USEPA Identification Number  
Required Notices  
General Waste Analysis  
Security  
General Inspection Requirements  
Personnel Training  
General Requirements for Ignitable, Reactive or Incompatible Wastes  
Location Standards  
Construction Quality Assurance Program

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## SUBPART C: PREPAREDNESS AND PREVENTION

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Required Equipment  
Testing and Maintenance of Equipment  
Access to Communications or Alarm System  
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Arrangements with Local Authorities

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725.130  
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## SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

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Purpose and Implementation of Contingency Plan  
Content of Contingency Plan  
Copies of Contingency Plan  
Amendment of Contingency Plan  
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## SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

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Use of Manifest System  
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Availability, Retention and Disposition of Records  
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725.190  
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Applicability  
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Sampling and Analysis  
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## SUBPART G: CLOSURE AND POST-CLOSURE

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Closure Performance Standard  
Closure Plan; Amendment of Plan  
Closure; Time Allowed for Closure  
Disposal or Decontamination of Equipment, Structures and Soils  
Certification of Closure  
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## SUBPART H: FINANCIAL REQUIREMENTS

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Cost Estimate for Closure  
Financial Assurance for Closure  
Cost Estimate for Post-closure Care  
Financial Assurance for Post-closure Monitoring and Maintenance  
Use of a Mechanism for Financial Assurance of Both Closure and Post-closure Care

Liability Requirements

Incapacity of Owners or Operators, Guarantors or Financial Institutions  
Promulgation of Forms (Repealed)

## SUBPART I: USE AND MANAGEMENT OF CONTAINERS

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Compatibility of Waste with Container  
Management of Containers  
Inspections  
Special Requirements for Ignitable or Reactive Waste  
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Design and Installation of New Tank Systems or Components  
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Response to leaks or spills and disposition of Tank Systems  
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Special Requirements for Ignitable or Reactive Waste

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## Special Requirements for Incompatible Wastes

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Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)

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725.441 Waste Analysis  
725.445 General Operating Requirements  
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## SUBPART P: THERMAL TREATMENT

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725.481 Closure  
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725.483 Interim Status Thermal Treatment Devices Burning Particular Hazardous Waste

## SUBPART Q: CHEMICAL, PHYSICAL AND BIOLOGICAL TREATMENT

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## SUBPART W: DRIP PADS

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## SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

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725.932 Standards: Process Vents  
725.933 Standards: Closed-vent Systems and Control Devices  
725.934 Test methods and procedures  
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## SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

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725.950 Applicability  
725.951 Definitions  
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725.954 Standards: Pressure Relief Devices in Gas/Vapor Service  
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725.958 Standards: Pumps, Valves, Pressure Relief Devices, Flanges and Other Connectors  
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725. Appendix A Recordkeeping Instructions  
725. Appendix B EPA Report Form and Instructions (Repealed)  
725. Appendix C EPA Interim Primary Drinking Water Standards  
725. Appendix D Tests for Significance  
725. Appendix E Examples of Potentially Incompatible Waste

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111½, pars. 1022.4 and 1027 [415 ILCS 5/22.4 and 27]).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective as noted in 35 Ill. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-18, 51 PCB 831, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19, 53 PCB 131, at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9, at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 17 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

Section 725.101 Purpose, Scope and Applicability



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- a) The purpose of this Part is to establish minimum standards which define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.
- b) The standards in this Part and of 35 Ill. Adm. Code 724.652 and 724.653 apply to owners and operators of facilities which treat, store or dispose of hazardous waste who have fully complied with the requirements for interim status under Section 3005(e) of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 et seq.) and 35 Ill. Adm. Code 703, until either a permit is issued under Section 3005 of the Resource Conservation and Recovery Act or Section 21(f) of the Environmental Protection Act, or until applicable closure and post-closure responsibilities under this Part are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980, who have failed to provide timely notification as required by Section 3010(a) of RCRA, or failed to file Part A of the Permit Application as required by 40 CFR 270.10(e) and (g) or 35 Ill. Adm. Code 703.150 and 703.152. These standards apply to all treatment, storage or disposal of hazardous waste at these facilities after November 19, 1980, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721;

BOARD NOTE: As stated in Section 3005(a) of RCRA, after the effective date of regulations under that Section, i.e., 40 CFR 270 and 124, the treatment, storage or disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility which meets certain conditions until final administrative disposition of the owner's and operator's permit application is made. 35 Ill. Adm. Code 703.140 et seq. provide that a permit is deemed issued under Section 21(f)(1) of the Environmental Protection Act under conditions similar to federal interim status.

- c) The requirements of this Part do not apply to:

- 1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research and Sanctuaries Act (16 U.S.C. 1431-1434; 33 U.S.C. 1401);

BOARD NOTE: This Part applies to the treatment or storage of hazardous waste before it is loaded into an ocean vessel for incineration or disposal at sea, as provided in subsection (b) above.

- 3) The owner or operator of a POTW (publicly owned treatment works) which treats, stores or disposes of hazardous waste;
- BOARD NOTE: The owner or operator of a facility under subsections (c)(1) through (c)(3) is subject to the requirements of 35 Ill. Adm. Code 724 to the extent they are included in a permit by rule granted to such a person under 35 Ill. Adm. Code 702 and 703 or are required by 35 Ill. Adm. Code 704.Subpart F.

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- 5) The owner or operator of a facility permitted, licensed or registered by Illinois to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores or disposes of is excluded from regulation under this Part by 35 Ill. Adm. Code 721.105;
- 6) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2), and (a)(3), and (a)(4) (except to the extent that requirements of this Part are referred to in 35 Ill. Adm. Code 726.Subparts C, F, G, or H or 279);
- 7) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134, except to the extent the requirements are included in 35 Ill. Adm. Code 722.134;
- 8) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170;
- 9) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;
- 10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 35 Ill. Adm. Code 728.Table D), or corrosive (D002) waste, in order to remove the characteristic before land disposal, the owner or operator must comply with the requirements set out in Section 725.117(b);
- 11) Immediate response:
- A) Except as provided in subsection (c)(1)(B), below, a person engaged in treatment or containment activities during immediate response to any of the following situations:
- i) A discharge of a hazardous waste;
  - ii) An imminent and substantial threat of a discharge of a hazardous waste;
  - iii) A discharge of a material which, when discharged, becomes a hazardous waste.
- B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D.
- C) Any person who is covered by subsection (c)(1)(A), above and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703 and 705 for those activities.

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- 12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less.
- 13) The addition of absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110), or the addition of waste to the absorbent material in a container, provided that these actions occur at the time waste is first placed in the containers; and Sections 725.117(b), 725.271 and 725.272 are complied with.
- d) The following hazardous wastes must not be managed at facilities subject to regulation under this Part: hazardous waste numbers F020, F021, F022, F023, F026 or F027 unless:
  - 1) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;
  - 2) The waste is stored in tanks or containers;
  - 3) The waste is stored or treated in waste piles that meet the requirements of 35 Ill. Adm. Code 724.350(c) as well as all other applicable requirements of Subpart I;
  - 4) The waste is burned in incinerators that are certified pursuant to the standards and procedures in Section 725.452; or
  - 5) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in Section 725.483.
- e) This Part applies to owners and operators of facilities which treat, store or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728, and the 35 Ill. Adm. Code 728 standards are considered material conditions or requirements of the interim status standards of this Part.
- f) 35 Ill. Adm. Code 700 contains rules concerning application of other Board regulations.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: LAND DISPOSAL RESTRICTIONS
- 2) Code Citation: 35 Ill. Adm. Code 728
- 3) Section Numbers: Proposed Action:  
728.102, 728.109, 728.135 Amended
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 111½, pars. 22.4 and 1027 [415 ILCS 5/22.4 and 5/27].
- 5) A Complete Description of the Subjects and Issues Involved:  
A more detailed description is contained in the Board's opinion of December 16, 1993 in R93-16, which opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111½, par. 1022.4(a) [415 ILCS 5/22.4(a)]) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCRA.  
  
This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period January 1 through June 30, 1993. During this time, U.S. EPA undertook the following actions:  
  
58 Fed. Reg. 8658 (Feb. 16, 1993) Corrective Action Management Unit (CAMU) and Temporary Unit (TU) regulations applicable to RCRA Subtitle C corrective actions  
  
58 Fed. Reg. 14317 (Mar. 17, 1993) Amendments to land disposal restrictions for Third Third wastes.  
  
58 Fed. Reg. 26420 (May 3, 1993) Technical amendments to the used and waste oil management standards  
  
58 Fed. Reg. 28506 (May 14, 1993) Renewal of case-by-case capacity variance from the land disposal restrictions for hazardous debris  
  
58 Fed. Reg. 29860 (May 24, 1993) Land disposal restrictions for ignitable and corrosive wastes whose treatment standards were vacated  
  
These federal actions have resulted in amendments to 35 Ill. Adm. Code 702, 703, 720, 724, 725, 728, and 739 in this update docket.

In particular, the amendments to Part 728 result from the federal corrective action management rules and the extension of the capacity variance from the land disposal restrictions for hazardous debris. The amendments to Section 728.102 resulted from the corrective action management unit rules; they amend the definition of "land disposal" to exclude corrective action management unit activities. The amendments to Section 728.135(e) represent the extension of the capacity variance for hazardous debris until May 8, 1994. In extending the variance, the amendments add conditions to the variance, narrowing its applicability. The Board has further restored text erroneously omitted in the preceding

## POLLUTION CONTROL BOARD

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amendments to Part 728, in docket R93-4, from Section 728.109(a). The Board has also changed the usage "EPA" and "USEPA" to "U.S. EPA" for greater clarity.

- 6) Will this proposed rule replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does these proposed amendments contain incorporations by reference? No.
- 9) Are there any other amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives:  
This rulemaking is mandated by Section 22.4(a) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 20 of that Act. This rulemaking imposes mandates on units of local government only to the extent that they may be involved in the generation, transportation, treatment, storage or disposal of hazardous waste.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:  
The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R93-16 and be addressed to:  
  
Ms. Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601
- 12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: December 20, 1993.
- B) Types of small businesses affected:

The existing rules and proposed amendments affect small businesses which generate, transport, treat, store or dispose of hazardous waste. In actuality, the capacity variance for hazardous debris is intended by U.S. EPA to reduce the overall regulatory burden at sites that cannot find adequate treatment capacity for their debris, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

- C) Reporting, bookkeeping or other procedures required for compliance:

The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. In actuality, the capacity

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variance for hazardous debris is intended by U.S. EPA to reduce the overall regulatory burden at sites that cannot find adequate treatment capacity for their debris, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

D)

Types of professional skills necessary for compliance:

Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. In actuality, the capacity variance for hazardous debris is intended by U.S. EPA to reduce the overall regulatory burden at sites that cannot find adequate treatment capacity for their debris, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

The full text of the proposed amendments begins on the next page:



## POLLUTION CONTROL BOARD

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TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE G: WASTE DISPOSAL  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 728  
 LAND DISPOSAL RESTRICTIONS

## SUBPART A: GENERAL

Section 728.101 Purpose, Scope and Applicability  
 728.102 Definitions  
 728.103 Dilution Prohibited as a Substitute for Treatment  
 728.104 Treatment Surface Impoundment Exemption  
 728.105 Procedures for case-by-case Extensions to an Effective Date  
 728.106 Petitions to Allow Land Disposal of a Waste Prohibited under Subpart C  
 728.107 Waste Analysis and Recordkeeping  
 728.108 Landfill and Surface Impoundment Disposal Restrictions (Repealed)  
 728.109 Special Rules for Characteristic Wastes

SUBPART B: SCHEDULE FOR LAND DISPOSAL PROHIBITION  
 AND ESTABLISHMENT OF TREATMENT STANDARDS

Section 728.110 First Third  
 728.111 Second Third  
 728.112 Third Third  
 728.113 Newly Listed Wastes  
 728.114 Surface Impoundment exemptions

## SUBPART C: PROHIBITION ON LAND DISPOSAL

Section 728.130 Waste Specific Prohibitions -- Solvent Wastes  
 728.131 Waste Specific Prohibitions -- Dioxin-Containing Wastes  
 728.132 Waste Specific Prohibitions -- California List Wastes  
 728.133 Waste Specific Prohibitions -- First Third Wastes  
 728.134 Waste Specific Prohibitions -- Second Third Wastes  
 728.135 Waste Specific Prohibitions -- Third Third Wastes  
 728.136 Waste Specific Prohibitions -- Newly Listed Wastes  
 728.137 Waste Specific Prohibitions -- Ignitable and Corrosive  
 Characteristic Wastes Whose Treatment Standards Were Vacated  
 Statutory Prohibitions

## SUBPART D: TREATMENT STANDARDS

Section 728.140 Applicability of Treatment Standards  
 728.141 Treatment Standards expressed as Concentrations in Waste Extract  
 728.142 Treatment Standards expressed as Specified Technologies  
 728.143 Treatment Standards expressed as Waste Concentrations  
 728.144 Adjustment of Treatment Standard  
 728.145 Treatment Standards for Hazardous Debris  
 728.146 Alternative Treatment Standards based on HWMR

## SUBPART E: PROHIBITIONS ON STORAGE

Section 728.150 Prohibitions on Storage of Restricted Wastes

728. Appendix A Toxicity Characteristic Leaching Procedure (TCLP)

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728. Appendix B Treatment Standards (As concentrations in the Treatment Residual Extract)  
 728. Appendix C List of Halogenated Organic Compounds  
 728. Appendix D Organometallic Lab Packs  
 728. Appendix E Organic Lab Packs  
 728. Appendix F Technologies to Achieve Deactivation of Characteristics  
 728. Appendix G Federal Effective Dates  
 728. Appendix H National Capacity LDR Variances for UIC Wastes

728. Table A Constituent Concentrations in Waste Extract (CCWE)  
 728. Table B Constituent Concentrations in Wastes (CCW)  
 728. Table C Technology Codes and Description of Technology-Based Standards  
 728. Table D Technology-Based Standards by RCRA Waste Code  
 728. Table E Standards for Radioactive Mixed Waste  
 728. Table F Alternative Treatment Standards for Hazardous Debris  
 728. Table G Alternative Treatment Standards Based on HWMR

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111, pars. 1022.4 and 1027 [415 ILCS 5/22.4 and 5/27]).

SOURCE: Adopted in R87-5 at 11 Ill. Reg. 19354, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13046, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18403, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6232, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14470, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16508, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9462, effective June 17, 1991; amended in R92-10 at 17 Ill. Reg. 5727, effective March 26, 1993; amended in R93-4 at 18 Ill. Reg. 20692, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

## Section 728.102 Definitions

When used in this Part the following terms have the meanings given below. All other terms have the meanings given under 35 Ill. Adm. Code 702.110, 720.102 or 721.103.

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.)

"Debris" means solid material exceeding a 60 mm particle size that is intended for disposal and that is: A manufactured object; or plant or animal matter; or natural geologic material. However, the following materials are not debris: Any material for which a specific treatment standard is provided in 728. Subpart D; Process residuals such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; and intact containers of hazardous waste that are not ruptured and that retain at least 75% of their original volume. A mixture of debris that has not been treated to the standards provided by Section

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728.145 of this Part and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection.

"Halogenated organic compounds" or "HOCs" means those compounds having a carbon-halogen bond which are listed under Section 728.Appendix C.

"Hazardous constituent or constituents" means those constituents listed in 35 Ill. Adm. Code 721.Appendix H.

"Hazardous debris" means debris that contains a hazardous waste listed in 35 Ill. Adm. Code 721.Subpart D, or that exhibits a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C.

Inorganic Solid Debris are nonfriable inorganic solids that are incapable of passing through a 9.5 mm standard sieve, and that require cutting, or crushing and grinding, in mechanical sizing equipment prior to stabilization, limited to the following inorganic or metal materials:

Metal slags (either dross or scoria).

Glassified slag.

Glass.

Concrete (excluding cementitious or pozzolanic stabilized hazardous wastes).

Masonry and refractory bricks.

Metal cans, containers, drums or tanks.

Metal nuts, bolts, pipes, pumps, valves, appliances or industrial equipment.

Scrap metal as defined in 35 Ill. Adm. Code 721.101(c)(6).

"Land disposal" means placement in or on the land, except in a corrective action management unit, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes.

"Nonwastewaters" are wastes that do not meet the criteria for "wastewaters" in this Section.

"Polychlorinated biphenyls" or "PCBs" are halogenated organic compounds defined in accordance with 40 CFR 761.3, incorporated by reference in 35 Ill. Adm. Code 720.111

"ppm" means parts per million.

"RCRA corrective action" means corrective action taken under 35

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Ill. Adm. Code 724.200 or 725.193, 40 CFR 264.100 or 265.93 (1987), or similar regulations in other States with RCRA programs authorized by U.S. EPA pursuant to 40 CFR 271 (1989).

"Underlying hazardous constituent" means any regulated constituent present at levels above the F039 constituent-specific treatment standard at the point of generation of the hazardous waste.

"U.S. EPA" or "USEPA" means the United States Environmental Protection Agency.

"Wastewaters" are wastes that contain less than 1% by weight total organic carbon (TOC) and less than 1% by weight total suspended solids (TSS), with the following exceptions:

F001, F002, F003, F004, F005 solvent-water mixtures that contain less than 1% by weight TOC or less than 1% by weight total F001, F002, F003, F004, F005 solvent constituents listed in Table A.

K011, K013, K014 wastewaters (as generated) that contain less than 5% by weight TOC and less than 1% by weight TSS.

K103 and K104 wastewaters that contain less than 4% by weight TOC and less than 1% by weight TSS.

(Source: Amended at \_\_\_\_ Ill. Reg. \_\_\_\_, effective

## Section 728.109 Special Rules for Characteristic Wastes

- a) The initial generator of a solid waste shall determine each waste code applicable to the waste in order to determine the applicable treatment standards under Subpart D of this Part. For purposes of 35 Ill. Adm. Code 728, the waste will carry a waste code designation for any applicable listing under 35 Ill. Adm. Code 721.Subpart D, and also one or more waste code designations under 35 Ill. Adm. Code 721.Subpart C where the waste exhibits the relevant characteristic, except in the case when the treatment standard for the waste code listed in 35 Ill. Adm. Code 721.Subpart D operates in lieu of the standard for the waste code under 35 Ill. Adm. Code 721.Subpart C, as specified in subsection (b) below. If the generator determines that his waste displays the characteristic of ignitability (D001) (and is not in the High TOC Ignitable Liquids Subcategory or is not treated by INCIN, FSUBS, or RORGs of 728.Table C of this Part) or the characteristic of corrosivity (D002) and is prohibited under Section 728.137, the generator shall determine what underlying hazardous constituents (as defined in Section 728.102) are reasonably expected to be present in the D001 or D002 waste.

- b) Where a prohibited waste is both listed under 35 Ill. Adm. Code 721.Subpart D and exhibits a characteristic under 35 Ill. Adm. Code 721.Subpart C, the treatment standard for the waste code listed in 35 Ill. Adm. Code 721.Subpart D will operate in lieu of the standard for the waste code under 35 Ill. Adm. Code 721.Subpart C, provided that the treatment standard for the listed waste includes a treatment standard for the constituent that

## POLLUTION CONTROL BOARD

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causes the waste to exhibit the characteristic. Otherwise, the waste must meet the treatment standards for all applicable listed and characteristic waste codes.

c) In addition to any applicable standards determined from the initial point of generation, no prohibited waste which exhibits a characteristic under 35 Ill. Adm. Code 721.131 Subpart C shall be land disposed unless the waste complies with the treatment standards under Subpart D of this Part.

d) Wastes that exhibit a characteristic are also subject to Section 728.107 requirements, except that once the waste is no longer hazardous, a one time notification and certification must be placed in the generators or treaters files and sent to the Agency. The notification and certification that is placed in the generators or treaters' files must be updated if the process or operation generating the waste changes or if the subtitle D facility receiving the waste changes. However, the generator or treater need only notify the Agency on an annual basis if such changes occur. Such notification and certification should be sent to the Agency by the end of the year but no later than December 31.

1) The notification must include the following information:

- A) The name and address of the non-hazardous waste facility receiving the waste shipment;
- B) A description of the waste as initially generated, including the applicable U.S. EPA Hazardous Waste Number(s) and treatability group(s);
- C) The treatment standards applicable to the waste at the initial point of generation.

2) The certification must be signed by an authorized representative and must state the language found in Section 728.107(b)(5)(A).

(Source: Amended at 17 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: PROHIBITION ON LAND DISPOSAL

Section 728.135 Waste Specific Prohibitions--Third Third wastes.

a) The following wastes are prohibited from land disposal.

1) The wastes specified in 35 Ill. Adm. Code 721.131 as EPA Hazardous Waste Numbers:

F002 (1,1,2-trichloroethane)  
F005 (benzene)  
F005 (2-ethoxyethanol)  
F005 (2-nitropropane)  
F006 (wastewaters),  
F019  
F025

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F039 (wastewaters);

2) The wastes specified in 35 Ill. Adm. Code 721.132 as EPA Hazardous Waste Numbers:

K002 (wastewaters)  
K003 (wastewaters)  
K004 (wastewaters)  
K005 (wastewaters)  
K006 (wastewaters)  
K008 (wastewaters)  
K011 (wastewaters)  
K013 (wastewaters)  
K014 (wastewaters)  
K015 (nonwastewaters)  
K017 (wastewaters)  
K021 (wastewaters)  
K022 (wastewaters)  
K025 (wastewaters)  
K026 (wastewaters)  
K029 (wastewaters)  
K031 (wastewaters)  
K032 (wastewaters)  
K033 (wastewaters)  
K034 (wastewaters)  
K035 (wastewaters)  
K041 (wastewaters)  
K042 (wastewaters, reactive nonwastewaters)  
K046 (wastewaters)  
K048 (wastewaters)  
K049 (wastewaters)  
K050 (wastewaters)  
K051 (wastewaters)  
K052 (wastewaters)  
K060 (wastewaters)  
K061 (wastewaters) and (high zinc subcategory > 15% zinc)  
K069 (wastewaters, calcium sulfate nonwastewaters)  
K073 (wastewaters)  
K083 (wastewaters)  
K084 (wastewaters)  
K085 (wastewaters)  
K095 (wastewaters)  
K096 (wastewaters)  
K097 (wastewaters)  
K098 (wastewaters)  
K100 (wastewaters)  
K101 (wastewaters)  
K102 (wastewaters)  
K105 (wastewaters)  
K106 (wastewaters)

3) The wastes specified in 35 Ill. Adm. Code 721.133(e) as EPA Hazardous Waste Numbers:

F001  
F002  
F003



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P004  
P005  
P006  
P007  
P008  
P009  
P010  
P011 (wastewaters)  
P012 (wastewaters)  
P014  
P015  
P016  
P017  
P018  
P020  
P022  
P023  
P024  
P026  
P027  
P028  
P031  
P033  
P034  
P036 (wastewaters)  
P037  
P038 (wastewaters)  
P042  
P045  
P046  
P047  
P048  
P049  
P050  
P051  
P054  
P056  
P057  
P058  
P059  
P060  
P064  
P065 (wastewaters)  
P066  
P067  
P068  
P069  
P070  
P072  
P073  
P075  
P076  
P077  
P078  
P081  
P082  
P084  
P088

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P092 (wastewaters)  
P093  
P095  
P096  
P101  
P102  
P103  
P105  
P108  
  
P110  
P112  
P113  
P114  
P115  
P116  
P118  
P119  
P120  
P122  
P123

- 4) The wastes specified in 35 Ill. Adm. Code 721.133(f) as EPA Hazardous Waste Numbers:

U001  
U002  
U003  
U004  
U005  
U006  
U007  
U008  
U009  
U010  
U011  
U012  
U014  
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U035

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U036  
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U099  
U101

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U103  
U105  
U106  
U108  
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U163

(wastewaters)

(wastewaters)

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U164  
U165  
U166  
U167  
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U169  
U170  
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U236

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U237  
U238  
U239  
U240  
U243  
U244  
U246  
U247  
U248  
U249

- 4) The following wastes identified as hazardous based on a characteristic alone:

D001  
D002  
D003  
D004 (wastewaters)  
D005  
D006  
D007  
D008 (except for lead materials stored before secondary smelting) (wastewaters)  
D009  
D010  
D011  
D012  
D013  
D014  
D015  
D016  
D017

- b) The following wastes are prohibited from land disposal. The wastes specified in 35 Ill. Adm. Code 721.132 as EPA Hazardous Waste Numbers:

K048 (nonwastewaters)  
K049 (nonwastewaters)  
K050 (nonwastewaters)  
K051 (nonwastewaters)  
K052 (nonwastewaters)

- c) Effective May 8, 1992, the following wastes are prohibited from land disposal:

- 1) The wastes specified in 35 Ill. Adm. Code 721.131 as EPA Hazardous Waste Numbers:

F039 (nonwastewaters)

- 2) The wastes specified in 35 Ill. Adm. Code 721.132 as EPA Hazardous Waste Numbers:

K031 (nonwastewaters)  
K084 (nonwastewaters)  
K101 (nonwastewaters)  
K102 (nonwastewaters)



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## K106 (nonwastewaters)

- 3) The wastes specified in 35 Ill. Adm. Code 721.133(e) as EPA Hazardous Waste Numbers:

P010 (nonwastewaters)  
 P011 (nonwastewaters)  
 P012 (nonwastewaters)  
 P036 (nonwastewaters)  
 P038 (nonwastewaters)  
 P065 (nonwastewaters)  
 P087  
 P092 (nonwastewaters)

- 4) The wastes specified in 35 Ill. Adm. Code 721.133(f) as EPA Hazardous Waste Numbers:

U136 (nonwastewaters)  
 U151 (nonwastewaters)

- 5) The following wastes identified as hazardous based on a characteristic alone:

D004 (nonwastewaters)  
 D009 (nonwastewaters);

- 6) RCRA hazardous wastes that contain naturally occurring radioactive materials.

- d) Effective May 8, 1992, hazardous wastes listed in Sections 728.110, 728.111 or 728.112 that are mixed radioactive/hazardous wastes, and soil or debris contaminated with hazardous wastes listed in Sections 728.110, 728.111 or 728.112 that are mixed radioactive/hazardous wastes, are prohibited from land disposal, except as provided in subsection (e) below.

- e) Subject to the applicable prohibitions of Sections 728.130, 728.131, and 728.132, contaminated soil and debris are prohibited from land disposal as follows:

- 1) Effective May 8, 1992, debris that is contaminated with wastes listed in Sections 728.110, 728.111 or 728.112 (including such wastes that are mixed radioactive and hazardous wastes), and debris that is contaminated with any characteristic waste for which treatment standards are established in Subpart D of this Part (including such wastes that are mixed radioactive-hazardous wastes), are prohibited from land disposal.

- 2) Effective May 8, 1992, mixed radioactive hazardous debris that is contaminated with hazardous wastes listed in Section 728.112 and mixed radioactive hazardous debris that is contaminated with any characteristic waste for which treatment standards are established in Subpart D of this Part are prohibited from land disposal.

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- 3) Subsections (e)(1) and (e)(2) of this Section shall not apply where the generator has failed to make good-faith effort to locate treatment capacity suitable for its waste, has not utilized such capacity as it has found to be available, or has failed to file a report as required by Section 728.105(g) by August 12, 1993 or within 90 days after the waste is generated (whichever is later) describing the generator's efforts to locate treatment capacity. Where subsections (e)(1) and (e)(2) of this Section do not apply, all wastes described in those two subsections are prohibited from land disposal.

BOARD NOTE: This subsection is derived from 40 CFR 268.35(e)(3), as added at 58 Fed. Reg. 28510 (May 14, 1993). This was a HSWA-derived amendment that went into effect as federal law in Illinois, effective May 8, 1993. The August 12, 1993 report was due on that date as a matter of federal law.

- 24) Effective May 8, 1993, hazardous soil having treatment standards in 728 Subpart D based on incineration, mercury retorting or vitrification, and soils contaminated with hazardous wastes listed in Sections 728.110, 728.111 and 728.112 that are mixed radioactive hazardous wastes, are prohibited from land disposal.

- 5) When used in subsections (e)(1) and (e)(2) of this Section, debris is defined as follows:

- A) Debris as defined in Section 728.102(g); or
- B) Nonfriable inorganic solids that are incapable of passing through a 9.5 mm standard sieve that require cutting or crushing and grinding in mechanical sizing equipment prior to stabilization, limited to the following inorganic or metal materials:
- i) Metal slag (either dress or scoria)
  - ii) Glassified slag
  - iii) Glass
  - iv) Concrete (excluding cementitious or noncementitious stabilized hazardous waste)
  - v) Masonry and refractory bricks
  - vi) Metal cans, containers, drums, or tanks
  - vii) Metal nuts, bolts, pipes, pumps, valves, appliances, or industrial equipment; or
  - viii) Scrap metal as defined in 35 Ill. Adm. Code 721.101(c)(6).

- h) Between May 8, 1990, and May 8, 1992, wastes included in subsections (c), (d) and (e), above, shall be disposed of in a

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landfill or surface impoundment only if such unit is in compliance with the requirements specified in Section 728.105(h)(2).

- i) The requirements of subsections (a), (b), (c), (d) and (e), above, do not apply if:

- 1) The wastes meet the applicable standards specified in Subpart D of this Part;
- 2) Persons have been granted an exemption from a prohibition pursuant to a petition under Section 728.106, with respect to those wastes and units covered by the petition;
- 3) The wastes meet the applicable alternate standards established pursuant to a petition granted under Section 728.144;
- 4) Persons have been granted an extension to the effective date of a prohibition pursuant to Section 728.105, with respect to these wastes covered by the extension.

j) To determine whether a hazardous waste listed in Section 728.110, 728.111 or 728.112 exceeds the applicable treatment standards specified in Sections 728.141 and 728.143, the initial generator shall either test a representative sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or use knowledge of the waste. If the waste contains constituents in excess of the applicable Subpart D of this Part levels, the waste is prohibited from land disposal, and all requirements of this Part are applicable, except as otherwise specified.

k) Effective May 8, 1993, D008 lead materials stored before secondary smelting are prohibited from land disposal. On or before March 1, 1993, the owner or operator of each secondary lead smelting facility shall submit to the Agency the following: A binding contractual commitment to construct or otherwise provide capacity for storing such D008 wastes prior to smelting which complies with all applicable storage standards; documentation that the capacity to be provided will be sufficient to manage the entire quantity of such D008 wastes; and, a detailed schedule for providing such capacity. Failure by a facility to submit such documentation will render such D008 managed by that facility prohibited from land disposal effective March 1, 1993. In addition, no later than July 27, 1992, the owner or operator of each facility shall place in the facility record documentation of the manner and location in which such wastes will be managed pending completion of such capacity, demonstrating that such management capacity will be adequate and complies with all applicable requirements of 35 Ill. Adm. Code 720 through 728.

(Source: Amended at \_\_\_\_ Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: RCRA AND UIC PERMIT PROGRAMS

- 2) Code Citation: 35 Ill. Adm. Code 702

- 3) Section Numbers: Proposed Action:

702.110

Amended

- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 111 $\frac{1}{2}$ , pars. 22.4 and 1027 [415 ILCS 5/22.4 and 5/27].

- 5) A Complete Description of the Subjects and Issues Involved:

A more detailed description is contained in the Board's opinion of December 16, 1993 in R93-16, which opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111 $\frac{1}{2}$ , par. 1022.4(a) [415 ILCS 5/22.4(a)]) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period January 1 through June 30, 1993. During this time, U.S. EPA undertook the following actions:

58 Fed. Reg. 8658 (Feb. 16, 1993)  
Corrective Action Management Unit (CAMU) and Temporary Unit (TU) regulations applicable to RCRA Subtitle C corrective actions

58 Fed. Reg. 14317 (Mar. 17, 1993)  
Amendments to land disposal restrictions for Third Third wastes.

58 Fed. Reg. 26420 (May 3, 1993)  
Technical amendments to the used and waste oil management standards

58 Fed. Reg. 28506 (May 14, 1993)  
Renewal of case-by-case capacity variance from the land disposal restrictions for hazardous debris

58 Fed. Reg. 29860 (May 24, 1993)  
Land disposal restrictions for ignitable and corrosive wastes whose treatment standards were vacated

These federal actions have resulted in amendments to 35 Ill. Adm. Code 702, 703, 720, 724, 725, 728, and 739 in this update docket.

In particular, the amendments to Part 702 adds a definition of "corrective action management unit" and amends the definition of "disposal facility" to Section 702.110 in response to the federal corrective action management unit rules. We also use this opportunity to update all references to the Code of Federal Regulations and the Illinois Revised Statutes (and add the parallel references to the Illinois Compiled Statutes). The Board has also changed the usage "EPA" and "USEPA" to "U.S. EPA" for greater clarity.

- 6) Will this proposed rule replace an emergency rule currently in effect?

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- No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does these proposed amendments contain incorporations by reference?
- Yes. The existing regulations include several references to the Code of Federal Regulations, actually incorporated by reference in 35 Ill. Adm. Code 720.111. The amendments update the references to the 1992 edition of the CFR, which is the latest one available.
- 9) Are there any other amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives:
- This rulemaking is mandated by Section 22.4(a) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 20 of that Act. This rulemaking imposes mandates on units of local government only to the extent that they may be involved in the generation, transportation, treatment, storage or disposal of hazardous waste.

- 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket #93-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601

- 12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: December 20, 1993.
- B) Types of small businesses affected:
- The existing rules and proposed amendments affect small businesses which generate, transport, treat, store or dispose of hazardous waste. In actuality, the corrective action management unit rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

- C) Reporting, bookkeeping or other procedures required for compliance:

The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. In actuality, the corrective

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action management unit rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

- D) Types of professional skills necessary for compliance:

Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. In actuality, the corrective action management unit rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

The full text of the proposed amendments begins on the next page.



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## NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE G: WASTE DISPOSAL  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER b: PERMITS

## PART 702

## RCRA AND UIC PERMIT PROGRAMS

## SUBPART A: GENERAL PROVISIONS

Section  
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 702.102  
 702.103  
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 702.107  
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Applicability  
 Purpose and Scope  
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 References  
 Rulemaking  
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 Permit Appeals  
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 Definitions

## SUBPART B: PERMIT APPLICATIONS

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 702.126

Permit Application  
 Who Applies  
 Completeness  
 Information Requirements  
 Recordkeeping  
 Continuation of Expiring Permits  
 Signatories to Permit Applications and Reports

## SUBPART C: PERMIT CONDITIONS

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Conditions Applicable to all Permits  
 Duty to Comply  
 Duty to Reapply  
 Need to Halt or Reduce Activity Not a Defense  
 Duty to Mitigate  
 Proper Operation and Maintenance  
 Permit Actions  
 Property Rights  
 Duty to Provide Information  
 Inspection and Entry  
 Monitoring and Records  
 Signatory Requirements  
 Reporting Requirements  
 Establishing Permit Conditions  
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 Alternative Schedules of Compliance  
 Recording and Reporting

## SUBPART D: ISSUED PERMITS

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 702.181  
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Effect of a Permit  
 Transfer  
 Modification  
 Causes for Modification

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702.185 Facility Siting  
 702.186 Revocation  
 702.187 Minor Modifications

AUTHORITY: Implementing Section 13 and 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111-1/2<sup>3</sup>, pars. 1013, 1022.4 and 1027) [415 ILCS 5/13, 22.4 and 27].

SOURCE: Adopted in R81-32, 47 PCB 93, at 6 Ill. Reg. 12479, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-19, at 53 PCB 131, 7 Ill. Reg. 14352, effective as noted in 35 Ill. Adm. Code 700.106; amended in R84-9 at 9 Ill. Reg. 11926, effective July 24, 1985; amended in R85-23 at 10 Ill. Reg. 13274, effective July 29, 1986; amended in R86-1 at 10 Ill. Reg. 14083, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6131, effective March 24, 1987; amended in R87-5 at 11 Ill. Reg. 19376, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2579, effective January 15, 1988; amended in R87-29 at 12 Ill. Reg. 6673, effective March 28, 1988; amended in R87-39 at 13 Ill. Reg. 13083, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18452, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3089, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6273, effective April 16, 1990; amended in R92-10 at 17 Ill. Reg. 5769, effective March 26, 1993; amended in R93-16 at 11 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

## Section 702.110 Definitions

The following definitions apply to 35 Ill. Adm. Code 702, 703, 704 and 705. Terms not defined in this Section have the meaning given by the appropriate Act. When a defined term appears in a definition, the defined term is sometimes placed within quotation marks as to an aid to readers. When a definition applies primarily to one or more programs, those programs appear in parentheses after the defined terms.

"Administrator" means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

"Agency" means the Illinois Environmental Protection Agency.

"Application" means the Agency forms for applying for a permit. For RCRA, application also includes the information required by the Agency under 35 Ill. Adm. Code 703.182 et seq. (contents of Part B of the RCRA application).

"Appropriate act and regulations" means the Resource Conservation and Recovery Act (RCRA); Safe Drinking Water Act (SDWA); or the "Environmental Protection Act," whichever is applicable; and applicable regulations promulgated under those statutes.

"Approved program or approved State" means a State or interstate program which has been approved or authorized by EPA under 40 CFR 271 (198892) (RCRA) or Section 1422 of the SDWA (UIC).

"Aquifer" (RCRA and UIC) means a geological "formation", group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

## POLLUTION CONTROL BOARD

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"Area of review" (UIC) means the area surrounding an injection well described according to the criteria set forth in 35 Ill. Adm. Code 730.106, or in the case of an area permit, the project area plus a circumscribing area the width of which is either 402 meters (1/4 of a mile) or a number calculated according to the criteria set forth in 35 Ill. Adm. Code 730.106.

"Board" means the Illinois Pollution Control Board.

"Closure" (RCRA) means the act of securing a "Hazardous Waste Management Facility" pursuant to the requirements of 35 Ill. Adm. Code 724.

"Component" (RCRA) means any constituent part of a unit or any group of constituent parts of a unit which are assembled to perform a specific function (e.g., a pump seal, pump, kiln liner, kiln thermocouple).

"Contaminant" (UIC) means any physical, chemical, biological or radiological substance or matter in water.

"Corrective action management unit" or "CAMU" means an area within a facility that is designated by the Agency under 35 Ill. Adm. Code 724. Subpart S for the purpose of implementing corrective action requirements under 35 Ill. Adm. Code 724.201 and RCRA section 3008(h). A CAMU shall only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.

BOARD NOTE: U.S. EPA must also designate a CAMU until it grants this authority to the Agency. See the note following 35 Ill. Adm. Code 724.652.

"CWA" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) P.L. 92-500, as amended by P.L. 95-217, and P.L. 95-576; 33 U.S.C. 1251 et seq. (198892).

"Date of approval by U.S. EPA of the Illinois UIC program" means February 1, 1984.

"Director" means the Director of the Illinois Environmental Protection Agency or the Director's designee.

"Disposal" (RCRA) means the discharge, deposit, injection, dumping, spilling, leaking or placing of any "hazardous waste" into or on any land or water so that such hazardous waste or any constituent of the waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

"Disposal Facility" (RCRA) means a facility or part of a facility at which "hazardous waste" is intentionally placed into or on the land or water, and at which hazardous waste will remain after closure. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed.

"Draft Permit" means a document prepared under 35 Ill. Adm. Code 705.141 indicating the Agency's tentative decision to issue, deny, modify, terminate or reissue a "permit". A notice of intent to

## POLLUTION CONTROL BOARD

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deny a permit, as discussed in 35 Ill. Adm. Code 705.141 is a type of "draft permit". A denial of a request for modification, as discussed in 35 Ill. Adm. Code 705.128, is not a "draft permit". A "proposed permit" is not a "draft permit".

"Drilling Mud" (UIC) means a heavy suspension used in drilling an "injection well", introduced down the drill pipe and through the drill bit.

"Elementary neutralization unit" means a device which:

Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristics defined in 35 Ill. Adm. Code 721.122, or are listed in Subpart D of 35 Ill. Adm. Code 721. Subpart D only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle or vessel in 35 Ill. Adm. Code 720.110.

"Emergency Permit" means a RCRA or UIC "permit" issued in accordance with 35 Ill. Adm. Code 703.221 or 704.163, respectively.

"Environmental Protection Act" means the Environmental Protection Act (Ill. Rev. Stat. 198791, ch. 111-1/23, par. 1001 et seq. [415 ILCS 5/1 et seq.]).

"Environmental Protection Agency" ("EPA") means the United States Environmental Protection Agency.

"EPA" means the United States "Environmental Protection Agency".

"Exempted aquifer" (UIC) means an "aquifer" or its portion that meets the criteria in the definition of "underground source of drinking water" but which has been exempted according to the procedures in 35 Ill. Adm. Code 702.105, 704.104 and 704.123(b).

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if:

The owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction; and

Either:

A continuous on-site, physical construction program has begun; or

The owner or operator has entered into contractual obligations -- which cannot be cancelled or modified without substantial loss -- for physical construction of the facility to be completed within a reasonable time.

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"Existing injection well" (UIC) means an "injection well" other than a "new injection well".

"Facility or activity" means any "HWM facility", UIC "injection well", or any other facility or activity (including land or appurtenances thereto) that is subject to regulations under the Illinois RCRA or UIC program.

"Facility mailing list" (RCRA) means the mailing list for a facility maintained by the Agency in accordance with 35 Ill. Adm. Code 705.163.

"Federal, State and local approvals or permits necessary to begin physical construction" means permits and approvals required under Federal, State or local hazardous waste control statutes, regulations or ordinances. (See 35 Ill. Adm. Code 700.102 et seq.)

"Final authorization" (RCRA) means approval by EPA of the Illinois Hazardous Waste Management program which has met the requirements of Section 3006(b) of RCRA and the applicable requirements of 40 CFR 271, Subpart A (198792). EPA granted initial final authorization on January 31, 1986.

"Fluid" (UIC) means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

"Formation" (UIC) means a body of rock characterized by a degree of lithologic homogeneity which is prevailing, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

"Formation fluid" (UIC) means "fluid" present in a "formation" under natural conditions as opposed to introduced fluids, such as "drilling mud".

"Functionally equivalent component" (RCRA) means a component which performs the same function or measurement and which meets or exceeds the performance specifications of another component.

"Generator" (RCRA) means any person, by site location, whose act or process produces "hazardous waste" identified or listed in 35 Ill. Adm. Code 721.

"Groundwater" (RCRA and UIC) means a water below the land surface in a zone of saturation.

"Hazardous Waste" (RCRA and UIC) means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste management facility" ("HWM facility") means all contiguous land, and structures, other appurtenances and improvements on the land, used for treating, storing or disposing of "hazardous waste". A facility may consist of several "treatment", "storage" or "disposal" operational units (for example, one or more landfills, surface impoundments or combinations of them).

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"HWM facility" (RCRA) means "Hazardous Waste Management facility".

"Injection well" (RCRA and UIC) means a "well" into which "fluids" are being injected.

"Injection zone" (UIC) means a geological "formation", group of formations or part of a formation receiving fluids through a "well".

"In operation" (RCRA) means a facility which is treating, storing or disposing of "hazardous waste".

"Interim authorization" (RCRA) means approval by EPA of the Illinois Hazardous Waste Management program which has met the requirements of Section 3006(c) of RCRA and applicable requirements of 40 CFR 271 (198792). This happened on May 17, 1982.

"Interstate agency" means an agency of two or more states established by or under an agreement or compact approved by the Congress, or any other agency of two or more states having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator under the "appropriate Act and regulations".

"Major facility" means any RCRA or UIC "facility or activity" classified as such by the Regional Administrator or the Agency.

"Manifest" (RCRA and UIC) means the shipping document originated and signed by the "generator" which contains the information required by 35 Ill. Adm. Code 722.Subpart B.

"National Pollutant Discharge Elimination System" means the program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits and imposing and enforcing pretreatment requirements under Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code 309.Subpart A and 310. The term includes an "approved program".

"New HWM facility" (RCRA) means a "Hazardous Waste Management facility" which began operation or for which construction commenced after November 19, 1980.

"New injection well" (UIC) means a "well" which began injection after the UIC program for the State of Illinois applicable to the well is approved.

"Off-site" (RCRA) means any site which is not "on-site".

"On-site" (RCRA) means on the same or geographically contiguous property which may be divided by public or private right(s)-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right(s)-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which the person controls and to which the public does not have access, is also considered on-site property.



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"Owner or operator" means the owner or operator of any "facility or activity" subject to regulation under the RCRA or UIC programs.

"Permit" means an authorization, license or equivalent control document issued to implement the requirements of this Part and 35 Ill. Adm. Code 703, 704, and 705.

"Permit" includes RCRA "permit by rule" (35 Ill. Adm. Code 703.141), UIC area permit (35 Ill. Adm. Code 704.162) and RCRA or UIC "Emergency Permit" (35 Ill. Adm. Code 703.221 and 704.163). "Permit" does not include RCRA interim status (35 Ill. Adm. Code 703.153 et seq.), UIC authorization by rule (35 Ill. Adm. Code 704.—Subpart C), or any permit which has not yet been the subject of final Agency action, such as a "Draft Permit" or a "Proposed Permit."

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agency or assigns.

"Phase I" (RCRA) means, as used in the corresponding federal regulations, the period of time commencing May 19, 1980. For Illinois purposes, Phase I began on May 17, 1982.

"Phase II" (RCRA) means, as used in the corresponding federal regulations, the period of time commencing May 19, 1980. For Illinois purposes, Phase II will commence whenever U.S. EPA granted final authorization to the Agency to issue RCRA permits for any class of facility or unit. This occurred on January 31, 1986.

"Physical construction" (RCRA) means excavation, movement of earth, erection of forms or structures or similar activity to prepare an "HWM facility" to accept "hazardous waste".

"Plugging" (UIC) means the act or process of stopping the flow of water, oil or gas into or out of a formation through a borehole or well penetrating that formation.

"POTW" means "publicly owned treatment works".

"Project" (UIC) means a group of wells in a single operation.

"Publicly owned treatment works" ("POTW") is as defined in 35 Ill. Adm. Code 310.

"Radioactive waste" (UIC) means any waste which contains radioactive material in concentrations which exceed those listed in 10 CFR 20, Appendix B, Table II, Column 2, incorporated by reference in 35 Ill. Adm. Code 720.111.

"RCRA" means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (P. L. 94-580, as amended by P. L. 95-609, P.L. 96-510, 42 U.S.C. 6901 et seq. (19892)).

"RCRA permit" means a permit required under Section 21(f) of the

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Environmental Protection Act.

"Regional Administrator" means the Regional Administrator for the EPA Region in which the facility is located or the Regional Administrator's designee.

"Schedule of compliance" means a schedule of remedial measures included in a "permit", including an enforceable sequence of interim requirements (for example, actions, operations or milestone events) leading to compliance with the "appropriate Act and regulations".

"SDWA" means the Safe Drinking Water Act (Pub. L. 93-523, as amended 42 U.S.C. 300f et seq. (19892)).

"Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

"SIC Code" means codes pursuant to the Standard Industrial Classification Manual incorporated by reference in 35 Ill. Adm. Code 720.111.

"State" means the State of Illinois.

"State Director" means the Director of the Illinois Environmental Protection Agency.

"State/EPA Agreement" means an agreement between the Regional Administrator and the State which coordinates EPA and State activities, responsibilities and programs including those under the RCRA and SDWA.

"Storage" (RCRA) means the holding of "hazardous waste" for a temporary period, at the end of which the hazardous waste is treated, disposed or stored elsewhere.

"Stratum (plural strata)" (UIC) means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

"Total dissolved solids" (UIC) means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR 136, incorporated by reference in 35 Ill. Adm. Code 720.111.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous wastes are held during the normal course of transportation.

"Transporter" (RCRA) means a person engaged in the off-site transportation of "hazardous waste" by air, rail, highway or water.

"Treatment" (RCRA) means any method, technique, process, including neutralization, designed to change the physical, chemical or biological character or composition of any "hazardous waste" so as

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to neutralize such wastes, or so as to recover energy or material resources from the waste, or so as to render such wastes non-hazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage or reduced in volume.

"UIC" means the Underground Injection Control program.

"Underground Injection" (UIC) means a "well injection".

"Underground source of drinking water" ("USDW") (RCRA and UIC) means an "aquifer" or its portion:

Which:

Supplies any public water system; or

Contains a sufficient quantity of groundwater to supply a public water system; and

Currently supplies drinking water for human consumption; or

Contains less than 10,000 mg/l total dissolved solids; and

Which is not an "exempted aquifer".

"USDW" (RCRA and UIC) means an "underground source of drinking water".

"U.S. EPA" or "USEPA" means the United States Environmental Protection Agency.

"Wastewater treatment unit" means a device which:

Is part of a wastewater treatment facility which is subject to regulation under 35 Ill. Adm. Code 309.Subpart A or 310; and

Receives and treats or stores an influent wastewater which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, and

Meets the definition of tank or tank system in 35 Ill. Adm. Code 720.110.

"Well (UIC) means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.

"Well injection" (UIC) means the subsurface emplacement of "fluids" through a bored, drilled or driven "well"; or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

BOARD NOTE: Derived from 40 CFR 144.3 and 270.2 (1988<sup>92</sup>), as

## POLLUTION CONTROL BOARD

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amended at 538 Fed. Reg. 340868695 (Feb. 16, 1993), September 2, 1988, and 53 Fed. Reg. 37934, September 28, 1988.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: RCRA PERMIT PROGRAM
- 2) Code Citation: 35 Ill. Adm. Code 703
- 3) Section Numbers: Proposed Action:  
703.Appendix A Amended
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 111½, pars. 22.4 and 1027 [415 ILCS 5/22.4 and 5/27].
- 5) A Complete Description of the Subjects and Issues Involved:

A more detailed description is contained in the Board's opinion of December 16, 1993 in R93-16, which opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111½, par. 1022.4(a) [415 ILCS 5/22.4(a)]) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCRC.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period January 1 through June 30, 1993. During this time, U.S. EPA undertook the following actions:

- 58 Fed. Reg. 8658 (Feb. 16, 1993) Corrective Action Management Unit (CAMU) and Temporary Unit (TU) regulations applicable to RCRA Subtitle C corrective actions
- 58 Fed. Reg. 14317 (Mar. 17, 1993) Amendments to land disposal restrictions for Third Third wastes.
- 58 Fed. Reg. 26420 (May 3, 1993) Technical amendments to the used and waste oil management standards
- 58 Fed. Reg. 28506 (May 14, 1993) Renewal of case-by-case capacity variance from the land disposal restrictions for hazardous debris
- 58 Fed. Reg. 29860 (May 24, 1993) Land disposal restrictions for ignitable and corrosive wastes whose treatment standards were vacated

These federal actions have resulted in amendments to 35 Ill. Adm. Code 702, 703, 720, 724, 725, 728, and 739 in this update docket.

In particular, the amendments to Part 703 incorporate new listings in Section 703.Appendix A, segment N., for the classifications of permit modifications for designation of a corrective action management unit or a temporary unit, elements of the federal corrective action management unit rules. Further, the amendments make a number of corrections to the text of the existing test of this section, in order to conform the text to the federal regulation upon which it is based. The "\*" footnote designation is added to the classifications at segments B.1.b., F.4.b., G.1.e., and G.5.c., and the footnote itself is moved from the end of segment B.1.c. to the end of the Appendix. Notes that appear in the

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original federal text are added to segments B.7.b., G.5.d., H.7.c., I.6., and J.8.c. Finally, as a stylistic change, "+/-" is changed to "±" at segment G.3.

- 6) Will this proposed rule replace an emergency rule currently in effect?  
No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does these proposed amendments contain incorporations by reference? No.
- 9) Are there any other amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives:

This rulemaking is mandated by Section 22.4(a) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 20 of that Act. This rulemaking imposes mandates on units of local government only to the extent that they may be involved in the generation, transportation, treatment, storage or disposal of hazardous waste.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R93-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601

- 12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: December 20, 1993.

- B) Types of small businesses affected:

The existing rules and proposed amendments affect small businesses which generate, transport, treat, store or dispose of hazardous waste. In actuality, the corrective action management unit rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

- C) Reporting, bookkeeping or other procedures required for compliance:

The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. In actuality, the corrective



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action management unit rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

D) Types of professional skills necessary for compliance:

Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. In actuality, the corrective action management unit rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

The full text of the proposed amendments begins on the next page:

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## TITLE 35: ENVIRONMENTAL PROTECTION

## SUBTITLE G: WASTE DISPOSAL

## CHAPTER I: POLLUTION CONTROL BOARD

## SUBCHAPTER b: PERMITS

## PART 703

## RCRA PERMIT PROGRAM

## SUBPART A: GENERAL PROVISIONS

## Scope and Relation to Other Parts

## Purpose

## References

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703.101  
703.110

## SUBPART B: PROHIBITIONS

## Prohibitions in General

## RCRA Permits

## Specific Inclusions in Permit Program

## Specific Exclusions from Permit Program

## Discharges of Hazardous Waste

## Reapplications

## Initial Applications

## Federal Permits (Repealed)

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703.122  
703.123  
703.124  
703.125  
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703.127

## SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

## Purpose and Scope

## Permits by Rule

## Application by Existing HWM Facilities and Interim Status

## Qualifications

## Application by New HWM Facilities

## Amended Part A Application

## Qualifying for Interim Status

## Prohibitions During Interim Status

## Changes During Interim Status

## Interim Status Standards

## Grounds for Termination of Interim Status

## Permits for Less Than an Entire Facility

## Closure by Removal

## Procedures for Closure Determination

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## SUBPART D: APPLICATIONS

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## Contents of Part B

## General Information

## Facility Location Information

## Groundwater Protection Information

## Exposure Information

## Solid Waste Management Units

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## Specific Information

## Containers

## Tank Systems

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703.205 Incinerators  
703.206 Land Treatment  
703.207 Landfills  
703.208 Specific Part B Information Requirements for Boilers and Industrial Furnaces  
703.209 Miscellaneous Units  
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703.211 Equipment  
703.212 Drip Pads

SUBPART E: SHORT TERM AND PHASED PERMITS

Section 703.221 Emergency Permits  
703.222 Incinerator Conditions Prior to Trial Burn  
703.223 Incinerator Conditions During Trial Burn  
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SUBPART F: PERMIT CONDITIONS OR DENIAL

Section 703.240 Permit Denial  
703.241 Establishing Permit Conditions  
703.242 Noncompliance Pursuant to Emergency Permit Monitoring  
703.243 Notice of Planned Changes  
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SUBPART G: CHANGES TO PERMITS

Section 703.260 Transfer  
703.261 Modification  
703.270 Causes for Modification  
703.271 Causes for Modification or Reissuance  
703.272 Facility Siting  
703.273 Permit Modification at the Request of the Permittee  
703.280 Class 1 Modifications  
703.281 Class 2 Modifications  
703.282 Class 3 Modifications  
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703. Appendix A Classification of Permit Modifications

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 1114, pars. 1022.4 and 1027 [415 ILCS 5/22.4 and 27]).

SOURCE: Adopted in R82-19, 53 PCB 131, at 7 Ill. Reg. 14289, effective October 12, 1983; amended in R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1110, effective January 2, 1987; amended in R85-23 at 10 Ill. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 Ill. Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20702, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6121, effective

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March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19383, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2584, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18477, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6278, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14492, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9616, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14554, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9767, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5774, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20794, effective November 22, 1993; amended in R93-16 at 17 Ill. Reg. , effective

Section 703. Appendix A Classification of Permit Modifications

Class Modifications

A. General Permit Provisions

- 1 1. Administrative and informational changes.
- 1 2. Correction of typographical errors.
- 1 3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls).
4. Changes in the frequency of or procedures for monitoring, reporting, sampling or maintenance activities by the permittee:
  - a. To provide for more frequent monitoring, reporting or maintenance.
  - b. Other changes.
- 2 5. Schedule of compliance:
  - a. Changes in interim compliance dates, with prior approval of the Agency.
- 1\*

BOARD NOTES: ~~1. 1. indicates that prior Agency approval is required.~~

b. Extension of final compliance date.

- 3
- 1\*

- 1\*
6. Changes in ownership or operational control of a facility, provided the procedures of Section 703.260(b) are followed.

B. General Facility Standards

1. Changes to waste sampling or analysis methods:

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- 1 a. To conform with Agency guidance or Board regulations.
- 1\* b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods.
- 1\* c. To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes.
- 2 ed. Other changes.
- 2 Changes to analytical quality assurance/control plan:
  - 1 a. To conform with agency guidance or regulations.
  - 2 b. Other changes.
- 1 Changes in procedures for maintaining the operating record.
- 2 Changes in frequency or content of inspection schedules.
- 5 Changes in the training plan:
  - 2 a. That affect the type or decrease the amount of training given to employees.
  - 1 b. Other changes.
6. Contingency plan:
  - 2 a. Changes in emergency procedures (i.e., spill or release response procedures).
  - 1 b. Replacement with functionally equivalent equipment, upgrade or relocate emergency equipment listed.
  - 2 c. Removal of equipment from emergency equipment list.
  - 1 d. Changes in name, address or phone number of coordinators or other persons or agencies identified in the plan.
- Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change must be reviewed under the same procedures as the permit modification.
7. CQA plan:
  - 1 a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications.
  - 2 b. Other changes.

Note: When a permit modification (such as

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introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as a permit modification.

## C. Groundwater Protection

1. Changes to wells:
  - 2 a. Changes in the number, location, depth or design of upgradient or downgradient wells of permitted groundwater monitoring system.
  - 1 b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design or depth of the well.
2. Changes in groundwater sampling or analysis procedures or monitoring schedule, with prior approval of the Agency.
- 1\* Changes in statistical procedure for determining whether a statistically significant change in groundwater quality between upgradient and downgradient wells has occurred, with prior approval of the Agency.
- 2\* Changes in point of compliance.
5. Changes in indicator parameters, hazardous constituents or concentration limits (including ACLs (Alternate Concentration Limits)):
  - 3 a. As specified in the groundwater protection standard.
  - 2 b. As specified in the detection monitoring program.
  - 2 Changes to a detection monitoring program as required by 35 Ill. Adm. Code 724.198(j), unless otherwise specified in this Appendix.
7. Compliance monitoring program:
  - 3 a. Addition of compliance monitoring program as required by 35 Ill. Adm. Code 724.198(h)(4) and 724.199.
  - 2 b. Changes to a compliance monitoring program as required by 35 Ill. Adm. Code 724.199(k), unless otherwise specified in this Appendix.
8. Corrective action program:
  - 3 a. Addition of a corrective action program as required by 35 Ill. Adm. Code 724.199(i)(2) and 724.200.
  - 2 b. Changes to a corrective action program as required by 35 Ill. Adm. Code 724.200(h), unless otherwise specified in this Appendix.

## D. Closure



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1. Changes to the closure plan:
  - 1\* a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Agency.
  - 1\* b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility or extension of the closure period, with prior approval of the Agency.
  - 1\* c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Agency.
  - 1\* d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Agency.
  - 2 e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this Appendix.
  - 2 f. Extension of the closure period to allow a landfill, surface impoundment or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under 35 Ill. Adm. Code 724.213(d) or (e).
  - 3 g. Creation of a new landfill unit as part of closure.
  - 3 h. Addition of the following new units to be used temporarily for closure activities:
    - 3 a. Surface impoundments.
    - 3 b. Incinerators.
    - 3 c. Waste piles that do not comply with 35 Ill. Adm. Code 724.350(c).
    - 2 d. Waste piles that comply with 35 Ill. Adm. Code 724.350(c).
    - 2 e. Tanks or containers (other than specified below).
    - 1\* f. Tanks used for neutralization, dewatering, phase separation or component separation, with prior approval of the Agency.

## E. Post-Closure

- 1 1. Changes in name, address or phone number of contact in post-closure plan.
- 2 2. Extension of post-closure care period.
- 3 3. Reduction in the post-closure care period.

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- 1 4. Changes to the expected year of final closure, where other permit conditions are not changed.
- 2 5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure.
- F. Containers
  1. Modification or addition of container units:
    - 3 a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a).
    - 2 b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a).
    - 1 c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), incorporated by reference in 35 Ill. Adm. Code 728.108, with prior approval of the Agency. This modification may also involve the addition of new waste codes or narrative description of wastes. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027 and F028).
  2.
    - 2 a. Modification of a container unit without increasing the capacity of the unit.
    - 1 b. Addition of a roof to a container unit without alteration of the containment system.
    3. Storage of different wastes in containers, except as provided in F(4):
      - 3 a. That require additional or different management practices from those authorized in the permit.
      - 2 b. That do not require additional or different management practices from those authorized in the permit.
  4. Storage or treatment of different wastes in containers:
    - 2 a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

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- 1\* treated to meet some or all of the applicable treatment standards, or are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), incorporated by reference in 35 Ill. Adm. Code 728.108. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027 and F028).
- 2 b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027 and F028).
- 3 G. Tanks
1. 1. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in paragraphs G(1)(c), G(1)(d) and G(1)(e).
- 2 2. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in paragraphs G(1)(d) and G(1)(e).
- 2 c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation or component separation.
- 1\* d. After prior approval of the Agency, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation or component separation.
- 1\* e. Modification or addition of tank units or treatment processes that are necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), incorporated by reference in 35 Ill. Adm. Code 728.108, with prior approval of the Agency. This modification may also involve the addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027 and F028).
- 2 2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit.

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- 1 3. Replacement of a tank with a tank that meets the same design standards and has a capacity within  $\pm 10\%$  of the replaced tank provided:
- a. The capacity difference is no more than 1500 gallons,
- b. The facility's permitted tank capacity is not increased and
- c. The replacement tank meets the same conditions in the permit.
- 2 4. Modification of a tank management practice.
- 3 5. Management of different wastes in tanks:
- a. That require additional or different management practices, tank design, different fire protection specifications or significantly different tank treatment process from that authorized in the permit, except as provided in paragraph G(5)(c).
- 2 b. That do not require additional or different management practices, tank design, different fire protection specification or significantly different tank treatment process than authorized in the permit, except as provided in paragraph G(5)(d).
- 1\* Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
- c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), incorporated by reference in 35 Ill. Adm. Code 728.108. The modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027 and F028).
- 1 d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027 and F028).
- Note: See Section 703.280(a) for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

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- 3 1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity.
- 3 2. Replacement of a surface impoundment unit.
- 2 3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system or leachate collection system.
- 2 4. Modification of a surface impoundment management practice.
5. Treatment, storage or disposal of different wastes in surface impoundments:
  - 3 a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.
  - 2 b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.
- 1 Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
- 1 c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), incorporated by reference in 35 Ill. Adm. Code 728.108, and provided that the unit meets the minimum technological requirements stated in 40 CFR 268.5(h)(2), incorporated by reference in 35 Ill. Adm. Code 728.105. This modification is not applicable to dioxin-containing wastes (F020, F021, F023, F026, F027 and F028).
- 1 d. That are residues from wastewater treatment or incineration, provided the disposal occurs in a unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2), incorporated by reference in 35 Ill. Adm. Code 728.105, and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027 and F028).
- 1\* 6. Modifications of unconstructed units to comply with 35 Ill. Adm. Code 724.321(c), 724.322, 724.323 and 724.326(d).
7. Changes in response action plan:
  - 3 a. Increase in action leakage rate.

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- 3 b. Change in a specific response reducing its frequency or effectiveness.
- 2 c. Other changes.
- Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
- I. Enclosed Waste Piles. For all waste piles, except those complying with 35 Ill. Adm. Code 724.350(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with 35 Ill. Adm. Code 724.350(c).
  1. Modification or addition of waste pile units:
    - 3 a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity.
    - 2 b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity.
    2. Modification of waste pile unit without increasing the capacity of the unit.
    - 1 3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit.
    - 2 4. Modification of a waste pile management practice.
    5. Storage or treatment of different wastes in waste piles:
      - 3 a. That require additional or different management practices or different design of the unit.
      - 2 b. That do not require additional or different management practices or different design of the unit.
  - Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
  - 2 6. Conversion of an enclosed waste pile to a containment building unit.
  - Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
  - J. Landfills and Unenclosed Waste Piles
    - 3 1. Modification or addition of landfill units that result in increasing the facility's disposal capacity.
    - 3 2. Replacement of a landfill.
    - 3 3. Addition or modification of a liner, leachate collection



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- 2 system, leachate detection system, run-off control or final cover system.
4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control or final cover system.
- 2 5. Modification of a landfill management practice.
6. Landfill different wastes:
- 3 a. That require additional or different management practices, different design of the liner, leachate collection system or leachate detection system.
- 2 b. That do not require additional or different management practices, different design of the liner, leachate collection system or leachate detection system.
- Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
- 1 c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), incorporated by reference in 35 Ill. Adm. Code 728.108, and provided that the landfill unit meets the minimum technological requirements stated in 40 CFR 268.5(h)(2), incorporated by reference in 35 Ill. Adm. Code 728.105. This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027 and F028).
- 1 d. That are residues from wastewater treatment or incineration, provided the disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2), Code incorporated by reference in 35 Ill. Adm. Code 728.105, and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027 and F028).
- 1\* 7. Modification of unconstructed units to comply with 35 Ill. Adm. Code 724.351(c), 724.352, 724.353, 724.354(c), 724.401(c), 724.402, 724.403(c) and 724.404.
8. Changes in response action plan:
- 3 a. Increase in action leakage rate.
- 3 b. Change in a specific response reducing its frequency or effectiveness.

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- 2 c. Other changes.
- Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
- K. Land Treatment
- 3 1. Lateral expansion of or other modification of a land treatment unit to increase area extent.
- 2 2. Modification of run-on control system.
- 3 3. Modify run-off control system.
- 2 4. Other modification of land treatment unit component specifications or standards required in permit.
5. Management of different wastes in land treatment units:
- 3 a. That require a change in permit operating conditions or unit design specifications.
- 2 b. That do not require a change in permit operating conditions or unit design specifications.
- Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
6. Modification of a land treatment unit management practice to:
- 3 a. Increase rate or change method of waste application.
- 1 b. Decrease rate of waste application.
- 2 7. Modification of a land treatment unit management practice to change measures of pH or moisture content or to enhance microbial or chemical reactions.
- 3 8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops or to modify operating plans for distribution of animal feeds resulting from such crops.
- 3 9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to 35 Ill. Adm. Code 724.378(g)(2).
- 3 10. Changes in the unsaturated zone monitoring system resulting in a change to the location, depth, number of sampling points or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements.
- 2 11. Changes in the unsaturated zone monitoring system that do

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not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements.

- 2 Changes in background values for hazardous constituents in soil and soil-pore liquid.

- 2 Changes in sampling, analysis or statistical procedure.

- 2 Changes in land treatment demonstration program prior to or during the demonstration.

- 1\* Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Agency's prior approval has been received.

- 1\* Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Agency.

- 3 Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration.

- 2 Changes in vegetative cover requirements for closure.

## L. Incinerators, Boilers and Industrial Furnaces

- 3 1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit or an ash feed rate limit. The Agency shall require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

- 2 2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit or an ash feed rate limit. The Agency shall require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

- 3 3. Modification of an incinerator, boiler or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/Cl<sub>2</sub>, metals or

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particulate from the combustion gases or by changing other features of the incinerator, boiler or industrial furnace that could affect its capability to meet the regulatory performance standards. The Agency shall require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.

- 2 4. Modification of an incinerator, boiler or industrial furnace unit in a manner that will not likely affect the capability of the unit to meet the regulatory performance standards but which will change the operating conditions or monitoring requirements specified in the permit. The Agency may require a new trial burn to demonstrate compliance with the regulatory performance standards.

## 5. Operating requirements:

- 3 a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide or hydrocarbon concentration, maximum temperature at the inlet to the PM emission control system or operating parameters for the air pollution control system. The Agency shall require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

- 3 b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls.

- 2 c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit.

## 6. Burning different wastes:

- 3 a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit, the Agency shall require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.

- 2 b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit.

BOARD NOTE: See Section 703.280(g) for modification procedures to be used for the management of newly

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listed or identified wastes.

7. Shakedown and trial burn:

- 2 a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period or the period immediately following the trial burn.
- 1\* b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Agency.
- 1\* c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Agency.
- 1\* d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Agency.

- 1 8. Substitution of an alternate type of nonhazardous waste fuel that is not specified in the permit.

M. Containment Buildings.

1. Modification or addition of containment building units:
  - 3 a. Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity.
  - 2 b. Resulting in up to 25% increase in the facility's containment building storage or treatment capacity.
  2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit.
  3. Replacement of a containment building with a containment building that meets the same design standards provided:
    - 1 a. The unit capacity is not increased.
    - 1 b. The replacement containment building meets the same conditions in the permit.
    2. Modification of a containment building management practice.
    5. Storage or treatment of different wastes in containment buildings:
      - 3 a. That require additional or different management practices.

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- 2 b. That do not require additional or different management practices

N. Corrective Action.

- 3 1. Approval of a corrective action management unit pursuant to 35 Ill. Adm. Code 724.652.
- 2 2. Approval of a temporary unit or time extension pursuant to 35 Ill. Adm. Code 724.653.

Note: \* indicates modifications requiring prior Agency approval.

BOARD NOTE: Derived from 40 CFR 270.42, Appendix I (19902), as amended at 58 Fed. Reg. 372818685, August 1993.

(Source: Amended at \_\_\_ Ill. Reg. \_\_\_, effective \_\_\_)



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- 1) **Heading of the Part:** STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE Treatment, Storage and Disposal Facilities

- 2) **Code Citation:** 35 Ill. Adm. Code 724

- 3) **Section Numbers:** **Proposed Action:**

724.101, 724.103, 724.201  
724.652, 724.653

Amended  
New Section

- 4) **Statutory Authority:** Ill. Rev. Stat. 1991, ch. 1114, pars. 22.4 and 1027 [415 ILCS 5/22.4 and 5/27].

- 5) **A Complete Description of the Subjects and Issues Involved:**

A more detailed description is contained in the Board's opinion of December 16, 1993 in R93-16, which opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 1114, par. 1022.4(a) [415 ILCS 5/22.4(a)]) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period January 1 through June 30, 1993. During this time, U.S. EPA undertook the following actions:

- 58 Fed. Reg. 8658 (Feb. 16, 1993) Corrective Action Management Unit (CAMU) and Temporary Unit (TU) regulations applicable to RCRA Subtitle C corrective actions
- 58 Fed. Reg. 14317 (Mar. 17, 1993) Amendments to land disposal restrictions for Third Third wastes.
- 58 Fed. Reg. 26420 (May 3, 1993) Technical amendments to the used and waste oil management standards
- 58 Fed. Reg. 28506 (May 14, 1993) Renewal of case-by-case capacity variance from the land disposal restrictions for hazardous debris
- 58 Fed. Reg. 29860 (May 24, 1993) Land disposal restrictions for ignitable and corrosive wastes whose treatment standards were vacated

These federal actions have resulted in amendments to 35 Ill. Adm. Code 702, 703, 720, 724, 725, 728, and 739 in this update docket.

In particular, the amendments to Part 724 are made to accommodate the revisions made by U.S. EPA as part of the corrective action management unit rules and as part of the used and waste oil corrections. The amendments to Sections 724.103 and 724.201 are related to the corrective action management rules, and the addition of Subpart S (Sections 724.652 and 724.653) is the heart of those rules. The amendments to Sections 724.103 make corrective actions at interim status facilities subject to the Part 724 provisions. Those to Section 724.201 make corrective

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action permit conditions subject to new Subpart S. The amendments to Section 724.101(g)(2) (renumbered in this docket from subsection (f) to correspond with federal subsection (g)), by the addition of a new, non-substantive subsection (f)) exempt facilities engaging in certain used oil recycling activities from Part 724 regulation, and they clarify that these exempted facilities may be subject to regulation under 35 Ill. Adm. Code 739. The Board also uses this opportunity to correct grammar and punctuation at Section 724.103. The Board has also changed the usage "EPA" and "USEPA" to "U.S. EPA" for greater clarity.

- 6) Will this proposed rule replace an emergency rule currently in effect?  
No.

- 7) Does this rulemaking contain an automatic repeal date? No.

- 8) Does these proposed amendments contain incorporations by reference? No.

- 9) Are there any other amendments pending on this Part? No.

- 10) Statement of Statewide Policy Objectives:

This rulemaking is mandated by Section 22.4(a) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 20 of that Act. This rulemaking imposes mandates on units of local government only to the extent that they may be involved in the generation, transportation, treatment, storage or disposal of hazardous waste.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R93-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601

- 12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: December 20, 1993.

- B) Types of small businesses affected:

The existing rules and proposed amendments affect small businesses which generate, transport, treat, store or dispose of hazardous waste. In actuality, the corrective action management unit rules and used and waste oil rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action or managing used and waste oil for recycling, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

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C) Reporting, bookkeeping or other procedures required for compliance:

The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. In actuality, the corrective action management unit rules and used and waste oil rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action or managing used and waste oil for recycling, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

D) Types of professional skills necessary for compliance:

Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. In actuality, the corrective action management unit rules and used and waste oil rules are intended by U.S. EPA to reduce the overall regulatory burden at sites undergoing corrective action or managing used and waste oil for recycling, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

The full text of the proposed amendments begins on the next page:

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## TITLE 35: ENVIRONMENTAL PROTECTION

## SUBTITLE G: WASTE DISPOSAL

## CHAPTER I: POLLUTION CONTROL BOARD

## SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

## PART 724

## STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

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724.Appendix I Groundwater Monitoring List

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111k, pars. 1022.4 and 1027 [415 ILCS 5/22.4 and 5/27]).

SOURCE: Adopted in R82-19, 53 PCB 131, at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22,

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1993; amended in R93-16 at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

## Section 724.101 Purpose, Scope and Applicability

a) The purpose of this Part is to establish minimum standards which define the acceptable management of hazardous waste.

b) The standards in this Part apply to owners and operators of all facilities which treat, store or dispose of hazardous waste, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.

c) The requirements of this Part apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research and Sanctuaries Act (16 U.S.C. 1431-1434, 33 U.S.C. 1401) only to the extent they are included in a RCRA permit by rule granted to such a person under 35 Ill. Adm. Code 703.141. A "RCRA permit" is a permit required by Section 21(f) of the Environmental Protection Act and 35 Ill. Adm. Code 703.121.

BOARD NOTE: This Part does apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.

d) The requirements of this Part apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued by the Agency pursuant to Section 12(g) of the Environmental Protection Act only to the extent they are required by 35 Ill. Adm. Code 704, Subpart F.

BOARD NOTE: This Part does apply to the above-ground treatment or storage of hazardous waste before it is injected underground.

e) The requirements of this Part apply to the owner or operator of a POTW (publicly owned treatment works) which treats, stores or disposes of hazardous waste only to the extent included in a RCRA permit by rule granted to such a person under 35 Ill. Adm. Code 703.141.

f) This subsection corresponds with 40 CFR 264.1(f), which provides that the federal regulations do not apply to T/S/D activities in authorized states, except under limited, enumerated circumstances. This statement maintains structural consistency with U.S. EPA rules.

fg) The requirements of this Part do not apply to:

1) The owner or operator of a facility permitted by the Agency under Section 21 of the Environmental Protection Act to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores or disposes of is excluded from regulation under this Part by 35 Ill. Adm. Code 721.105.

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BOARD NOTE: The owner or operator may be subject to 35 Ill. Adm. Code 807 and may have to have a supplemental permit under 35 Ill. Adm. Code 807.210.

2) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2), and (a)(3), and (a)(4) (except to the extent that requirements of this Part are referred to in 35 Ill. Adm. Code 726.Subparts C, F, G, or H, or 272).

3) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134.

4) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170.

5) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110.

6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 35 Ill. Adm. Code 728.Table D), or corrosive (D002) waste, to remove the characteristic before land disposal, the owner or operator must comply with the requirements set out in Section 724.117(b) of this part;

7) Immediate response:

A) Except as provided in subsection (f)(8)(B), a person engaged in treatment or containment activities during immediate response to any of the following situations:

- i) A discharge of a hazardous waste;
- ii) An imminent and substantial threat of a discharge of hazardous waste;
- iii) A discharge of a material which, when discharged, becomes a hazardous waste.

B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D.

C) Any person who is covered by subsection (f)(8)(A) and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703 and 705 for those activities. Or,

8) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less.



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- 9) The addition of absorbent materials to waste in a container (as defined in 35 Ill. Adm. Code 720) or the addition of waste to absorbent material in a container, provided these actions occur at the time waste is first placed in the container; and Sections 724.117(b), 724.271 and 724.272 are complied with.

- h) This Part applies to owners and operators of facilities which treat, store or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 724.103 Relationship to Interim Status Standards

A facility owner or operator who has fully complied with the requirements for interim status--as defined in Section 3005(e) of RCRA and regulations under 35 Ill. Adm. Code 703, Subpart C--must comply with the regulations specified in 35 Ill. Adm. Code 725 in lieu of the regulations in this Part, until final administrative disposition of his permit application is made, except as provided under Subpart S of this Part.

BOARD NOTE: As stated in Section 21(f) of the Illinois Environmental Protection Act, the treatment, storage, or disposal of hazardous waste is prohibited, except in accordance with a RCRA permit. 35 Ill. Adm. Code 703, Subpart C provides for the continued operation of an existing facility which meets certain conditions until final administrative disposition of the owner's or operator's permit application is made.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 724.201 Corrective Action for Solid Waste Management Units

- a) The owner or operator of a facility seeking a permit for the treatment, storage or disposal of hazardous waste must institute correction action as necessary to protect human health and the environment for all releases of hazardous waste or constituents from any solid waste management unit at the facility, regardless of the time at which waste was placed in such unit.

- b) Corrective action will be specified in the permit in accordance with this Section and Subpart S of this Part. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action.

- c) The owner or operator must implement corrective action measures beyond the facility property boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the Agency that, despite the owner or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such actions. The owner and operator are not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such

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releasees will be determined on a case-by-case basis. Assurances of financial responsibility for such corrective action must be provided.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART S: CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS

## 724.652 Corrective Action Management Units

a) For the purpose of implementing remedies under Section 724.201 or RCRA Section 3008(h), the Agency may designate an area at the facility as a corrective action management unit, as defined in 35 Ill. Adm. Code 720.10, in accordance with the requirements of this Section. One or more CAMUs may be designated at a facility.

- 1) Placement of remediation wastes into or within a CAMU does not constitute land disposal of hazardous wastes.
- 2) Consolidation or placement of remediation wastes into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.

## b) Designation of a CAMU.

- 1) The Agency may designate a regulated unit (as defined in Section 724.190(a)(2)) as a CAMU, or it may incorporate a regulated unit into a CAMU, if:

A) The regulated unit is closed or closing, meaning it has begun the closure process under Section 724.213 or 35 Ill. Adm. Code 725.213; and

B) Inclusion of the regulated unit will enhance implementation of effective, protective, and reliable remedial actions for the facility.

- 2) The requirements of Subparts F, G, and H and the unit-specific requirements of this Part or the 35 Ill. Adm. Code 725 requirements that applied to that regulated unit will continue to apply to that portion of the CAMU after incorporation into the CAMU.

- c) The Agency shall designate a CAMU in accordance with the following factors:

1) The CAMU shall facilitate the implementation of reliable, effective, protective, and cost-effective remedies;

2) Waste management activities associated with the CAMU shall not create unacceptable risks to humans or to the environment resulting from exposure to hazardous wastes or hazardous constituents;

3) The CAMU shall include uncontaminated areas of the facility only if including such areas for the purpose of managing



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- remediation waste is more protective than managing such wastes at contaminated areas of the facility;
- 4) Areas within the CAMU where wastes remain in place after its closure shall be managed and contained so as to minimize future releases to the extent practicable;
- 5) The CAMU shall expedite the timing of remedial activity implementation, when appropriate and practicable;
- 6) The CAMU shall enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and
- 7) The CAMU shall, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.
- d) The owner or operator shall provide sufficient information to enable the Agency to designate a CAMU in accordance with the standards of this Section.
- e) The Agency shall specify in the permit the requirements applicable to a CAMU, including the following:
- 1) The areal configuration of the CAMU.
  - 2) Requirements for remediation waste management, including the specification of applicable design, operation, and closure requirements.
  - 3) Requirements for groundwater monitoring that are sufficient to:
    - A) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of hazardous constituents in groundwater from sources located within the CAMU; and
    - B) Detect and subsequently characterize releases of hazardous constituents to groundwater that may occur from areas of the CAMU in which wastes will remain in place after closure of the CAMU.
  - 4) Closure and post-closure requirements.
    - A) Closure of a CAMU shall:
      - 1) Minimize the need for further maintenance; and
      - 1.1) Control, minimize, or eliminate, to the extent necessary to protect human health and the environment, for areas where wastes remain in place, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or hazardous waste decomposition.

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- products to the ground, to surface waters, or to the atmosphere.
- B) Requirements for closure of a CAMU shall include the following, as appropriate:
- i) Requirements for excavation, removal, treatment, or containment of wastes;
  - ii) For areas in which wastes will remain after closure of the CAMU, requirements for the capping of such areas; and
  - iii) Requirements for the removal and decontamination of equipment, devices, and structures used in remediation waste management activities within the CAMU.
- C) In establishing specific closure requirements for a CAMU under this subsection, the Agency shall consider the following factors:
- i) The characteristics of the CAMU;
  - ii) The volume of wastes that remain in place after closure;
  - iii) The potential for releases from the CAMU;
  - iv) The physical and chemical characteristics of the waste;
  - v) The hydrological and other relevant environmental conditions at the facility that may influence the migration of any potential or actual releases; and
  - vi) The potential for exposure of humans and environmental receptors if releases were to occur from the CAMU.
- D) Post-closure requirements as necessary to protect human health and the environment, including for areas where wastes will remain in place, monitoring and maintenance activities and the frequency with which such activities shall be performed to ensure the integrity of any cap, final cover, or other containment system.
- E) The Agency shall document the rationale for designating the CAMU and shall make such documentation available to the public.
- F) Incorporation of a CAMU into an existing permit must be approved by the Agency according to the procedures for Agency-initiated permit modifications under 35 Ill. Adm. Code 701.275 through 701.277 or according to the permit modification procedures of 35 Ill. Adm. Code 701.283 of this chapter.

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- b1) The designation of a CAMU does not change the Agency's existing authority to address clean-up levels, media-specific points of compliance to be applied to remediation at a facility, or other remedy selection decisions.

BOARD NOTE: Derived from 40 CFR 264.552 (1992), as added at 58 Fed. Reg. 8683 (Feb. 16, 1993). U.S. EPA promulgated this provision pursuant to HSWA provisions of RCRA Subtitle C. Since the federal provision became immediately effective in Illinois, and until U.S. EPA authorizes this Illinois provision, an owner or operator must seek CAMU authorization from U.S. EPA Region V, as well as authorization from the Agency under this provision.

(Source: Added at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_

## Temporary Units

- a1) For temporary tanks and container storage areas used for treatment or storage of hazardous remediation wastes, during remedial activities required under Section 724.201 or RCRA section 3008(h), the Agency shall establish alternative requirements pursuant to this Section if it determines that a design, operating, or closure standard applicable to such units may be replaced by alternative requirements that is equally as protective of human health and the environment as would be the standards of this part or of 35 Ill. Adm. Code 725, if applied.

- b1) Any temporary unit to which alternative requirements are applied in accordance with subsection (a) shall be:

1) Located within the facility boundary; and

2) Used only for treatment or storage of remediation wastes.

- c1) In establishing alternative requirements to be applied to a temporary unit, the Agency shall consider the following factors:

1) The length of time such unit will be in operation;

2) The type of unit;

3) The volumes of wastes to be managed;

4) The physical and chemical characteristics of the wastes to be managed in the unit;

5) The potential for releases from the unit;

6) The hydrogeological and other relevant environmental conditions at the facility that may influence the migration of any potential releases; and

7) The potential for exposure of humans and environmental receptors if releases were to occur from the unit.

- d1) The Agency shall specify in the permit the length of time a temporary unit will be allowed to operate, which shall be no longer than one year. The Agency shall also specify the design,

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operating, and closure requirements for the unit.

- a1) The Agency may extend the operational period of a temporary unit once, for no longer than a period of one year beyond that originally specified in the permit, if the Agency determines that:

1) Continued operation of the unit will not pose a threat to human health and the environment; and

2) Continued operation of the unit is necessary to ensure timely and efficient implementation of remedial actions at the facility.

- f1) Incorporation of a temporary unit or a time extension for a temporary unit into an existing permit shall be:

1) Approved in accordance with the procedures for Agency-initiated permit modifications under 35 Ill. Adm. Code 703.270 through 703.273; or

2) Requested by the owner/operator as a Class 2 modification according to the procedures under 35 Ill. Adm. Code 703.283.

- g1) The Agency shall document the rationale for designating a temporary unit and for granting time extensions for temporary units and shall make such documentation available to the public.

BOARD NOTE: Derived from 40 CFR 264.553 (1992), as added at 58 Fed. Reg. 8684 (Feb. 16, 1993). U.S. EPA promulgated this provision pursuant to HSWA provisions of RCRA Subtitle C. Since the federal provision became immediately effective in Illinois, and until U.S. EPA authorizes this Illinois provision, an owner or operator must seek IU authorization from U.S. EPA Region V, as well as authorization from the Agency under this provision.

(Source: Added at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_



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1) Heading of the Part: STANDARDS FOR THE MANAGEMENT OF USED OIL2) Code Citation: 35 Ill. Adm. Code 7393) Section Numbers: Proposed Action:

739.100, 739.110, 739.111 Amended  
 739.112, 739.121, 739.122 Amended  
 739.123, 739.124, 739.140 Amended  
 739.141, 739.142, 739.143 Amended  
 739.145, 739.146, 739.151 Amended  
 739.152, 739.154, 739.156 Amended  
 739.157, 739.158, 739.160 Amended  
 739.162, 739.164, 739.165 Amended  
 739.170, 739.171, 739.172 Amended  
 739.173, 739.174 Amended

4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 1114, pars. 22.4 and 1027 [415 ILCS 5/22.4 and 5/27].5) A Complete Description of the Subjects and Issues Involved:

A more detailed description is contained in the Board's opinion of December 16, 1993 in R93-16, which opinion is available from the address below. Section 22.4(a) of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 1114, par. 1022.4(a) [415 ILCS 5/22.4(a)]) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's RCRA hazardous waste rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period January 1 through June 30, 1993. During this time, U.S. EPA undertook the following actions:

58 Fed. Reg. 8658 (Feb. 16, 1993) Corrective Action Management Unit (CAMU) and Temporary Unit (TU) regulations applicable to RCRA Subtitle C corrective actions

58 Fed. Reg. 14317 (Mar. 17, 1993) Amendments to land disposal restrictions for Third Third wastes.

58 Fed. Reg. 26420 (May 3, 1993) Technical amendments to the used and waste oil management standards

58 Fed. Reg. 28506 (May 14, 1993) Renewal of case-by-case capacity variance from the land disposal restrictions for hazardous debris

58 Fed. Reg. 29860 (May 24, 1993) Land disposal restrictions for ignitable and corrosive wastes whose treatment standards were vacated

These federal actions have resulted in amendments to 35 Ill. Adm. Code 702, 703, 720, 724, 725, 728, and 739 in this update docket.

In particular, the amendments to Part 739 result from the federal

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corrections to the used and waste oil regulations. The amendments are many, and they affect the applicability of Part 739, among other changes. The Board has also made a number of corrections and restored text erroneously omitted in the prior update, in docket R93-4, where we adopted Part 739. The largest among these is the restoration of text that would have required used oil facilities to notify U.S. EPA of their activities, at Sections 739.124, 739.142, 739.143, 739.146, 739.151, 739.156 through 739.158, 739.162, 739.165, 739.171, 739.173, 739.174. The amendments also include stylistic revisions. The Board's opinion of December 16, 1993 outlines each of the amendments.

6) Will this proposed rule replace an emergency rule currently in effect? No.

7) Does this rulemaking contain an automatic repeal date? No.

8) Does these proposed amendments contain incorporations by reference? No.

9) Are there any other amendments pending on this Part? No.

10) Statement of Statewide Policy Objectives:

This rulemaking is mandated by Section 22.4(a) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 20 of that Act. This rulemaking imposes mandates on units of local government only to the extent that they may be involved in the generation, transportation, treatment, storage or disposal of hazardous waste.

11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R93-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board  
 State of Illinois Center, Suite 11-500  
 100 W. Randolph St.  
 Chicago, IL 60601

12) Initial Regulatory Flexibility Analysis:

A) Data rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: December 20, 1993.

B) Types of small businesses affected:

The existing rules and proposed amendments affect small businesses which generate, transport, treat, store or dispose of hazardous waste. In actuality, the used and waste oil rules are intended by U.S. EPA to reduce the overall regulatory burden at sites managing used and waste oil for recycling, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.



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C) Reporting, bookkeeping or other procedures required for compliance:

The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. In actuality, the used and waste oil rules are intended by U.S. EPA to reduce the overall regulatory burden at sites managing used and waste oil for recycling, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

D) Types of professional skills necessary for compliance:

Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. In actuality, the used and waste oil rules are intended by U.S. EPA to reduce the overall regulatory burden at sites managing used and waste oil for recycling, although they do impose distinct requirements to qualify for the exception from the general hazardous waste management burden imposed by the existing RCRA Subtitle C regulations.

The full text of the proposed amendments begins on the next page.

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TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE C: WASTE DISPOSAL  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

## PART 739

## STANDARDS FOR THE MANAGEMENT OF USED OIL

## SUBPART A: DEFINITIONS

## Definitions

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739.100

## SUBPART B: APPLICABILITY

Applicability  
 Used oil specifications  
 Prohibitions

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739.110  
739.111  
739.112

## SUBPART C: STANDARDS FOR USED OIL GENERATORS

Applicability  
 Hazardous waste mixing  
 Used oil storage  
 On-site burning in space heaters  
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739.120  
739.121  
739.122  
739.123  
739.124

## SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS AND AGGREGATION POINTS

Do-it-yourselfer used oil collection centers  
 Used oil collection centers  
 Used oil aggregate points owned by the generator

Section  
739.130  
739.131  
739.132

## SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND TRANSFER FACILITIES

Applicability  
 Restrictions on transporters ~~whohat~~ are not also processors  
 Notification  
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 Rebuttable presumption for used oil  
 Used oil storage at transfer facilities  
 Tracking  
 Management of residues

Section  
739.140  
739.141  
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## SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Applicability  
 Notification  
 General facility standards  
 Rebuttable presumption for used oil  
 Used oil management  
 Analysis plan  
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 Management of residues

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739.150  
739.151  
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SUBPART G: STANDARDS FOR USED OIL BURNERS WHOSE THAT BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.

Section  
739.160  
739.161  
739.162  
739.163  
739.164  
739.165  
739.166  
739.167

Applicability  
Restriction on burning  
Notification  
Rebuttable presumption for used oil  
Used oil storage  
Tracking  
Notices  
Management of residues

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

A continuous on-site installation program has begun, or

Section  
739.170  
739.171  
739.172  
739.173  
739.174  
739.175

Applicability  
Prohibitions  
On-specification used oil fuel  
Notification  
Tracking  
Notices

SUBPART I: STANDARDS FOR USE AS A DUST SUPPRESSANT DISPOSAL OF USED OIL

The owner or operator has entered into contractual obligations which cannot be canceled or modified without substantial loss for installation of the tank to be completed within a reasonable time.  
BOARD NOTE: This definition is similar to the definition for "Existing tank system" in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for "existing tank" in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks systems which contain hazardous wastes. The above definition is limited to this Part only.

Section  
739.180  
739.181  
739.182

Applicability  
Disposal  
Use as a dust suppressant

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111, para. 1022.4 and 1027 [415 ILCS 5/22.4 and 5/27]).

SOURCE: Adopted in R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 111. Reg. , effective

"Household 'do-it-yourselfer' used oil" means oil that is derived from households, such as used oil generated by individuals who generate used oil through the maintenance of their personal vehicles.  
BOARD NOTE: Household 'do-it-yourselfer' used oil is not subject to the State's special waste hauling permit requirements under Part 809.

SUBPART A: DEFINITIONS

"Household 'do-it-yourselfer' used oil generator" means an individual who generates household "do-it-yourselfer" used oil.

Section 739.100 Definitions

Terms that are defined in 35 Ill. Adm. Code 720.110, 721.101, and 731.112 have the same meanings when used in this Part.

"Aboveground tank" means a tank used to store or process used oil that is not an underground storage tank as defined in 35 Ill. Adm. Code 280.12.

BOARD NOTE: This definition is different from the definition for "Aboveground tank" given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the main distinction is that the definition for this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks which contain hazardous wastes. The above definition is limited to this Part only.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Do-it-yourselfer used oil collection center" means any site or

"Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived product. Processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining.

"New tank" means a tank that will be used to store or process used oil and for which installation has commenced after the effective date of the authorized used oil program for the State in which the tank is located.

BOARD NOTE: This definition is similar to the definition given for "New tank system" given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for "new tank" in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates new tanks systems which contain hazardous wastes. The above definition is limited to this Part only.

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"Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.

"Tank" means any stationary device, designed to contain an accumulation of used oil which is constructed primarily of non-earthen materials, (e.g., wood, concrete, steel, plastic) which provides structural support.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"Used oil aggregation point" means any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons. Used oil aggregation points may also accept used oil from household do-it-yourselfers.

"Used oil burner" means a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a).

"Used oil collection center" means any site or facility that is registered by the Agency to manage used oil and accepts or aggregates and stores used oil collected from used oil generators regulated under Subpart C of this Part ~~whethat~~ bringing used oil to the collection center in shipments of no more than 55 gallons under the provisions of Section 739.124. Used oil collection centers may also accept used oil from household do-it-yourselfers.

"Used oil fuel marketer" means any person ~~whethat~~ conducts either of the following activities:

Directs a shipment of off-specification used oil from their facility to a used oil burner; or

First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.

"Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

"Used oil processor" means a facility that processes used oil.

"Used oil transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. Transfer facilities that store used oil for more than 35 days are subject to regulation under Subpart F of this Part.

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"Used oil transporter" means any person ~~whethat~~ transports used oil, any person ~~whethat~~ collects used oil from more than one generator and transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

(Source: Amended at \_\_\_\_ Ill. Reg. \_\_\_\_, effective

## SUBPART B: APPLICABILITY

## Section 739.110 Applicability

This Section identifies those materials which are subject to regulation as used oil under this Part. This Section also identifies some materials that are not subject to regulation as used oil under this Part, and indicates whether these materials may be subject to regulation as hazardous waste under Parts 702, 703, 720 through 726 and 728.

a) Used oil. U.S. EPA presumes that used oil is to be recycled unless a used oil handler disposes of used oil, or sends used oil for disposal. Except as provided in Section 739.111, the regulations of this Part apply to used oil, and to materials identified in this Section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C.

b) Mixtures of used oil and hazardous waste.

1) Listed hazardous waste.

A) Mixtures of used oil and hazardous waste that is listed in 35 Ill. Adm. Code 721.Subpart D ~~are~~ is subject to regulation as hazardous waste under 35 Ill. Adm. Code 703, 720 through 726 and 728, rather than as used oil under this Part.

B) Rebuttable presumption for used oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 35 Ill. Adm. Code 721.Subpart D. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 35 Ill. Adm. Code 721.Appendix H). U.S. EPA Publication SW-846, Third Edition, is available for the cost of \$110.00 from the Government Printing



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Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, (202) 783-3238 (document number 955-001-00000-1).

- i) The rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner, or disposed.
  - ii) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbon (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
- 2) Characteristic hazardous waste. MA mixtures of used oil and hazardous waste that exhibits a hazardous waste characteristic identified in 35 Ill. Adm. Code 721.Subpart C and a mixture of used oil and hazardous waste that is listed in Subpart D of this Part solely because it exhibits one or more of the characteristics of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C are is subject to:
- A) Except as provided in subsection (b)(2)(c) of this Section, regulation as hazardous waste under 35 Ill. Adm. Code 703, 720 through 726 and 728 rather than as used oil under this Part, if the resultant mixture exhibits any characteristics of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C; or
  - B) Except as provided in subsection (b)(2)(c) of this Section, regulation as used oil under this Part, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under 35 Ill. Adm. Code 721.Subpart C.
  - C) Regulation as used oil under this Part, if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability and is not listed in 35 Ill. Adm. Code 721.Subpart D (e.g., mineral spirits), provided that the mixture does not exhibit the characteristic of ignitability under 35 Ill. Adm. Code 721.121.
- 3) Conditionally exempt small quantity generator hazardous waste. MA mixtures of used oil and conditionally exempt small quantity generator hazardous waste regulated under 35 Ill. Adm. Code 721.105 are is subject to regulation as used oil under this Part.

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c) Mixtures of contaminated or otherwise contaminated with used oil with non-hazardous solid wastes. Mixtures of used oil and non-hazardous solid waste are subject to regulation as used oil under this Part.

1) Except as provided in subsection (c)(2) of this Section, a material containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material.

- A) Is not used oil, and thus, it is not subject to this Part, and
- B) If applicable, is subject to the hazardous waste regulations of 35 Ill. Adm. Code 703, 705, 720 through 726, and 728.

2) A material containing or otherwise contaminated with used oil that is burned for energy recovery is subject to regulation as used oil under this Part.

3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this Part.

d) Mixtures of used oil with products.

1) Except as provided in subsection (d)(2) below, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this Part.

2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Subpart C of this Part.

e) Materials derived from used oil.

1) Materials that are reclaimed from used oil that are used beneficially and are not burned for energy recovery or used in a manner constituting disposal (e.g., re-refined lubricants) are:

- A) Not used oil and thus are not subject to this Part, and
- B) Not solid wastes and are thus not subject to the hazardous waste regulations of Parts 35 Ill. Adm. Code 703, 720 through 726 and 728 as provided in 35 Ill. Adm. Code 721.103(c)(2)(a).

2) Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under this Part.

3) Except as provided in subsection (e)(4) below, materials

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derived from used oil that are disposed of or used in a manner constituting disposal are:

- A) Not used oil and thus are not subject to this Part, and
  - B) Are solid wastes and thus are subject to the hazardous waste regulations of 35 Ill. Adm. Code 703, 720 through 726 and 728 if the materials are listed or identified as hazardous waste.
- 4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are \*
- A) ~~Not subject to this Part at this time, and~~
  - B) ~~Not subject to the hazardous waste regulations of 35 Ill. Adm. Code 703, 720 through 726 and 728 at this time.~~

f) Wastewater. Wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act (including wastewaters at facilities which have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this Part. For purposes of this subsection, "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

g) Used oil introduced into crude oil or natural gas pipelines. Used oil that is placed directly into a crude oil or natural gas pipeline is subject to the management standards of this Part only prior to the point of introduction to the pipeline. Once the used oil is introduced to the pipeline, the material is exempt from the requirements of this Part.

h) Used oil on vessels. Used oil produced on vessels from normal shipboard operations is not subject to this Part until it is transported ashore.

~~A) PCB-contaminated used oil, PCB-containing used oil regulated 35 Ill. Adm. Code 761 is exempt from regulation under this Part.~~

~~B) This Section is adopted to maintain correlation with the Federal regulations.~~

i) Used oil containing PCBs. In addition to the requirements of this Part, a marketer or burner of used oil that markets used oil containing any quantifiable level of PCBs is subject to the requirements of 40 CFR 761.20(e).

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(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 739.111 Used oil specifications

Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this Part unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in Table 1. Once used oil that is to be burned for energy recovery has been shown not to exceed any specification and the person making that showing complies with Sections 739.172, 739.173, and 739.174(b), the used oil is no longer subject to this Part.

Table 1-Used Oil Not Exceeding Any Specification Level Is Not Subject to this Part When Burned for Energy Recovery

| Constituent/property | Allowable level                  |
|----------------------|----------------------------------|
| Arsenic              | 5 ppm maximum.                   |
| Cadmium              | 2 ppm maximum.                   |
| Chromium             | 10 ppm maximum.                  |
| Lead                 | 100 ppm maximum.                 |
| Flash point          | 100 °F minimum.                  |
| Total halogens       | 4,000 ppm maximum <sup>2</sup> . |

FOOTNOTE: <sup>1</sup> The specification does not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (see Section Section-739.110(b)).

FOOTNOTE: <sup>2</sup> Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under Section 739.110(b)(1). Such used oil is subject to 35 Ill. Adm. Code 726.Subpart H rather than this Part when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

NOTE: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 739.112 Prohibitions

- a) Surface impoundment prohibition. Used oil shall not be managed in surface impoundments or waste piles unless the units are subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Use as a dust suppressant. The use of used oil as a dust suppressant is prohibited, except when such activity takes place in one of the states listed in Section 739.182(c).
- c) Burning in particular units. Off-specification used oil fuel may



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waste, in addition to the requirements of this Subpart.

- a) Storage units. Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of units. Containers and aboveground tanks used to store used oil at generator facilities must be:
  - 1) In good condition (no severe rusting, apparent structural defects or deterioration); and
  - 2) Not leaking (no visible leaks).
- c) Labels.
  - 1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."
  - 2) Fill pipes used to transfer used oil into underground storage tanks at generator facilities must be labeled or marked clearly with the words "Used Oil."
- d) Response to releases. Upon detection of a release of used oil to the environment not subject to the requirements of Part 280, Subpart F which has occurred after the effective date of the authorized used oil program for the State in which the release is located, a generator ~~must~~ shall perform the following cleanup steps:
  - 1) Stop the release;
  - 2) Contain the released used oil;
  - 3) Clean up and manage properly the released used oil and other materials; and
  - 4) If necessary to prevent future releases, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at \_\_\_\_ Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 739.123 On-site burning in space heaters

a) ~~Generators may burn used oil in used oil-fired space heaters provided that:~~

- 1a) The heater burns only used oil that the owner or operator generates or used oil received from household do-it-yourself used oil generators;
- 2b) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and
- 3c) The combustion gases from the heater are vented to the

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be burned for energy recovery in only the following devices:

- 1) Industrial furnaces identified in 35 Ill. Adm. Code 720.110;
- 2) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are identified as follows:
  - A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;
  - B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or
  - C) Used oil-fired space heaters provided that the burner meets the provisions of Section 739.123.
- 3) Hazardous waste incinerators subject to regulation under 35 Ill. Adm. Code 724, Subpart O or 725, Subpart Q.

(Source: Amended at \_\_\_\_ Ill. Reg. \_\_\_\_, effective \_\_\_\_)

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section 739.121 Hazardous waste mixing

- a) ~~Generators shall not mix hazardous waste with mixtures of used oil and hazardous waste must be managed except as provided in accordance with Section 739.110(b)(2)(4) and (6).~~
- b) The rebuttable presumption for used oil of Section 739.110(b)(1)(B) applies to used oil managed by generators. Under the rebuttable presumption for used oil of Section 739.110(b)(1)(B), used oil containing greater than 1,000 ppm total halogens is presumed to be a hazardous waste and thus must be managed as hazardous waste and not as used oil unless the presumption is rebutted. However, the rebuttable presumption does not apply to certain metalworking oils and fluids and certain used oils removed from refrigeration units.

(Source: Amended at \_\_\_\_ Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 739.122 Used oil storage

~~As specified in Section 739.110(f), wastewaters containing no-minimal quantities of used oil are not subject to the requirements of this Part, including the prohibition on storage in units other than tanks or containers. Used oil generators are subject to all applicable federal Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart. Used oil generators are also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not this used oil exhibits any characteristics of hazardous~~



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ambient air.

- b) ~~This section is adapted to maintain consultation with Federal regulations.~~

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 739.124 Off-site shipments

Except as provided in subsections (a) through (c) of this Section, generators ~~must~~ shall ensure that their used oil is transported only by transporters ~~whethat~~ have obtained a U.S. EPA identification number and an Illinois special waste identification numbers pursuant to 35 Ill. Adm. Code Part 809.

BOARD NOTE: A generator ~~whethat~~ qualifies for an exemption under Section 739.124(a) through (c) may still be subject to the State's special waste hauling permit requirements under Part 809.

- a) Self-transportation of small amounts to registered collection centers. Generators may transport, without a U.S. EPA identification number and an Illinois special waste identification number, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that:

- 1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
- 2) The generator transports no more than 55 gallons of used oil at any time; and

- 3) The generator transports the used oil to a used oil collection center that has registered by written notification with the Agency to manage used oil. This notification shall include information sufficient for the Agency to identify, locate and communicate with the facility. The notification shall be submitted on forms provided by the Agency.

- b) Self-transportation of small amounts to aggregation points owned by the generator. Generators may transport, without a U.S. EPA identification number and an Illinois special waste identification number, used oil that is generated at the generator's site to an aggregation point provided that:

- 1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
- 2) The generator transports no more than 55 gallons of used oil at any time; and
- 3) The generator transports the used oil to an aggregation point that is owned or operated by the same generator.

- c) Tolling arrangements. Used oil generators may arrange for used oil to be transported by a transporter without a U.S. EPA identification number and an Illinois special waste identification

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number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor to the generator for use as a lubricant, cutting oil, or coolant. The contract (known as a "tolling arrangement") must indicate:

- 1) The type of used oil and the frequency of shipments;
- 2) That the vehicle used to transport the used oil to the processing facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor; and
- 3) That reclaimed oil will be returned to the generator.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND TRANSFER FACILITIES

## Section 739.140 Applicability

- a) General. Except as provided in subsections (a)(1) through (a)(4) of this Section, this Subpart applies to all used oil transporters. Used oil transporters are persons ~~whethat~~ transport used oil, persons ~~whethat~~ collect used oil from more than one generator and transport the collected oil, and owners and operators of used oil transfer facilities.

- 1) This Subpart does not apply to on-site transportation.
- 2) This Subpart does not apply to generators ~~whethat~~ transport shipments of used oil totalling 55 gallons or less from the generator to a used oil collection center as specified in Section 739.124(a).

- 3) This Subpart does not apply to generators ~~whethat~~ transport shipments of used oil totalling 55 gallons or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in Section 739.124(b).

- 4) This Subpart does not apply to transportation of used oil ~~generated by~~ from household do-it-yourselfers ~~from the initial generator to~~ a regulated used oil generator, collection center, aggregation point, processor, or burner subject to the requirements of this Part. Except as provided in subsections (a)(1) through (a)(3) of this Section, this Subpart does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.

BOARD NOTE: A generator ~~whethat~~ qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

- b) Imports and exports. Transporters ~~whethat~~ import used oil from

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abroad or export used oil outside of the United States are subject to the requirements of this Subpart from the time the used oil enters and until the time it exits the United States.

- c) Trucks used to transport hazardous waste. Unless trucks previously used to transport hazardous waste are emptied as described in 35 Ill. Adm. Code 721.107 prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and must be managed as hazardous waste unless, under the provisions of Section 739.110(b), the hazardous waste and used oil mixture is determined not to be hazardous waste.
- d) Other applicable provisions. Used oil transporters ~~whethat~~ conduct the following activities are also subject to other applicable provisions of this Part as indicated in subsections (d)(1) through (5) of this Section:

- 1) Transporters ~~whethat~~ generate used oil ~~whetshall~~ also comply with Subpart C of this Part;
- 2) Transporters ~~whethat~~ process or re-refine used oil, except as provided in Section 739.141, ~~whetshall~~ also comply with Subpart F of this Part;
- 3) Transporters ~~whethat~~ burn off-specification used oil for energy recovery ~~whetshall~~ also comply with Subpart G of this Part;
- 4) Transporters ~~whethat~~ direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 ~~whetshall~~ also comply with Subpart H of this part; and
- 5) Transporters ~~whethat~~ dispose of used oil, including the use of used oil as a dust suppressant, ~~whetshall~~ also comply with Subpart I of this Part.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 739.141 Restrictions on transporters ~~whethat~~ are not also processors

- a) Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in subsection (b) of this Section, used oil transporters may not process used oil unless they also comply with the requirements for processors in Subpart F of this Part.
- b) Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products unless they also comply with the processor requirements in Subpart F of this Part.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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### Section 739.142 Notification

- a) Identification numbers. ~~WA~~ used oil transporters ~~whethat~~ have not previously ~~emptied~~ with the-notified U.S. EPA ~~requirements-of~~ hazardous waste and other used oil management activities and obtained a U.S. EPA identification number pursuant to RCRA Section 3010 ~~whetshall~~ ~~emptied~~ with these ~~requirements~~ to identify its used oil transporter activities. Even if a used oil transporter has previously notified U.S. EPA of hazardous waste and other used oil management activities and obtained a U.S. EPA identification number pursuant to RCRA Section 3010, it shall renotify to identify its used oil transporter activities, ~~and~~ ~~A~~ used oil transporter shall obtain an Illinois special waste identification number.

b) Mechanics of notification.

- 1) A used oil transporter that has not received a U.S. EPA identification number may obtain one by notifying U.S. EPA Region V of its used oil activity by submitting either:
  - A) A completed U.S. EPA Form 8700-12 (To obtain ordering information for U.S. EPA Form 8700-12 call the RCRA/Superfund Hotline at 1-900-424-9346 or 703-920-9810); or
  - B) A letter requesting a U.S. EPA identification number. ~~(Call the RCRA/Superfund Hotline to determine where to send a letter requesting a U.S. EPA identification number.)~~ The letter should include the following information:
    - i) The transporter company name;
    - ii) The owner of the transporter company;
    - iii) The mailing address for the transporter;
    - iv) The name and telephone number for the transporter point of contact;
    - v) The type of transport activity ~~(i.e., transport only, transport and transfer facility, or transfer facility only)~~;
    - vi) The location of all transfer facilities at which ~~used oil is stored~~;
    - vii) The name and telephone number for a contact at each transfer facility.
- 2) A used oil transporter ~~whethat~~ has not received an Illinois special waste identification number may obtain one pursuant to 35 Ill. Adm. Code Part 809.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 739.143 Used oil transportation

- a) Deliveries. A used oil transporter ~~must~~shall deliver all used oil received to:

- 1) Another used oil transporter, provided that the transporter has obtained a U.S. EPA identification number and an Illinois special waste identification number;
- 2) A used oil processing facility ~~whethat~~ has obtained a U.S. EPA identification number and an Illinois special waste identification number;
- 3) An off-specification used oil burner facility ~~whethat~~ has obtained a U.S. EPA identification number and an Illinois special waste identification number; or
- 4) An on-specification used oil burner facility.

- b) Shipping U.S. DOT requirements. ~~WA~~ used oil transporters ~~must~~shall comply with all applicable ~~packaging, labeling, and placarding~~ requirements ~~of~~ under the U.S. Department of Transportation ~~wherin~~ 49 CFR parts 173.114 and 173.115 through 180. ~~WA~~ person transporting used oil that meets the definition of combustible liquid (flash point below 200°F but at or greater than 100°F) or flammable liquid (flash point below 100°F) a hazardous material in 49 CFR 171.8 ~~is subject to~~shall comply with all applicable U.S. Department of Transportation Hazardous Materials Regulations ~~at in~~ 49 CFR Parts 100.1 through 177.80.

- c) Used oil discharges.

- 1) In the event of a discharge of used oil during transportation, the transporter ~~must~~shall take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).
- 2) If a discharge of used oil occurs during transportation and an official (State or local government or a Federal Agency) acting within the scope of official responsibilities determines that immediate removal of the used oil is necessary to protect human health or the environment, that official may authorize the removal of the used oil by a transporter ~~whethat~~ does not have a U.S. EPA identification number and an Illinois special waste identification numbers.
- 3) An air, rail, highway, or water transporter ~~whethat~~ has discharged used oil ~~must~~shall:

- A) Give notice, if required by 49 CFR 171.15 to the National Response Center (800-424-8802 or 202-426-2675); and

- B) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590.

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- 4) A water transporter ~~whethat~~ has discharged used oil ~~must~~shall give notice as required by 33 CFR 153.203.

- 5) A transporter ~~must~~shall clean up any used oil discharged that occurs during transportation or take such action as may be required or approved by federal, state, or local officials so that the used oil discharge no longer presents a hazard to human health or the environment.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 739.145 Used oil storage at transfer facilities

~~As specified in Section 739.140(f), waste waters containing "de-minimis" quantities of used oil are not subject to the requirements of this Part, including the prohibition on storage in units other than tanks or containers. WA used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart. WA used oil generators, transporters are also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart.~~

- a) Applicability. This Section applies to used oil transfer facilities. Used oil transfer facilities are transportation related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. Transfer facilities that store used oil for more than 35 days are subject to regulation under Subpart F.

- b) Storage units. Owners or operators of used oil transfer facilities may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

- c) Condition of units. Containers and aboveground tanks used to store used oil at transfer facilities must be:

- 1) In good condition (no severe rusting, apparent structural defects or deterioration); and
- 2) Not leaking (no visible leaks).

- d) Secondary containment for containers. Containers used to store used oil at transfer facilities must be equipped with a secondary containment system.

- 1) The secondary containment system must consist of, at a minimum:

- A) Dikes, berms or retaining walls; and
- B) A floor. The floor must cover the entire area within the dikes, berms, or retaining walls ~~or~~ of
- C) An equivalent secondary containment system.



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- 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

e) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store used oil at transfer facilities must be equipped with a secondary containment system.

- 1) The secondary containment system must consist of, at a minimum:

- A) Dikes, berms or retaining walls; and
  - B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
  - C) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

f) Secondary containment for new aboveground tanks. New aboveground tanks used to store used oil at transfer facilities must be equipped with a secondary containment system.

- 1) The secondary containment system must consist of, at a minimum:
- A) Dikes, berms or retaining walls; and
  - B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
  - C) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

g) Labels.

- 1) Containers and aboveground tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words "Used Oil."
- 2) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities must be labeled or marked clearly with the words "Used Oil."

h) Response to releases. Upon detection of a release of used oil to

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the environment not subject to the requirements of 35 Ill. Adm. Code 731. Subpart F which has occurred after the effective date of the authorized used oil program for the State in which the release is located, a owner or operator of a transfer facility ~~must~~ shall perform the following cleanup steps:

- 1) Stop the release;
- 2) Contain the released used oil;
- 3) Clean up and manage properly the released used oil and other materials; and
- 4) If necessary to prevent future releases, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at        Ill. Reg.       , effective       )

## Section 739.146 Tracking

a) Acceptance. Used oil transporters ~~must~~ shall keep a record of each used oil shipment accepted for transport. Records for each shipment must include:

- 1) The name and address of the generator, transporter, or processor ~~that~~ provided the used oil for transport;
- 2) The U.S. EPA identification number and Illinois special waste identification number (if applicable) of the generator, transporter, or processor ~~that~~ provided the used oil for transport;
- 3) The quantity of used oil accepted;
- 4) The date of acceptance; and
- 5) The signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor ~~that~~ provided the used oil for transport.

b) Deliveries. Used oil transporters ~~must~~ shall keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor, or disposal facility. Records of each delivery must include:

- 1) The name and address of the receiving facility or transporter;
- 2) The U.S. EPA identification number and Illinois special waste identification number of the receiving facility or transporter;
- 3) The quantity of used oil delivered;
- 4) The date of delivery;

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- 5) The signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.
- c) Exports of used oil. Used oil transporters ~~must~~ shall maintain the records described in subsections (b)(1) through (b)(4) of this Section for each shipment of used oil exported to any foreign country.
- d) Record retention. The records described in subsections (a), (b), and (c) of this Section must be maintained for at least three years.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: STANDARDS FOR USED OIL PROCESSORS

## Section 739.151 Notification

- a) Identification numbers. ~~UA~~ used oil processors ~~and/or re-refiners~~ ~~whethat~~ have not previously ~~emplied with the~~ notified ~~the~~ U.S. EPA of hazardous waste and other used oil management activities and obtained a U.S. EPA identification number under the requirements of RCRA Section 3010 ~~must~~ shall comply with these requirements to notify U.S. EPA to identify its used oil processor or re-refiner activities. Even if a used oil processor or re-refiner has previously notified U.S. EPA of hazardous waste and other used oil management activities and obtained a U.S. EPA identification number pursuant to RCRA Section 3010, it shall renotify to identify its used oil processor or re-refiner activities. ~~and A~~ used oil processor or re-refiner shall obtain an Illinois special waste identification number.

- b) Mechanics of notification.

1) A used oil processor or re-refiner that has not received a U.S. EPA identification number may obtain one by notifying U.S. EPA Region V of its used oil activity by submitting either:

- A) A completed U.S. EPA Form 8700-12 (To obtain ordering information for U.S. EPA Form 8700-12 call the RCRA/Superfund Hotline at 1-900-424-9346 or 703-920-2810); or
- B) A letter requesting a U.S. EPA identification number. (Call the RCRA/Superfund Hotline to determine where to send a letter requesting a U.S. EPA identification number.) The letter should include the following information:
- i) The processor or re-refiner company name;
  - ii) The owner of the processor or re-refiner company;
  - iii) The mailing address for the processor or re-

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## refiner:

- iv) The name and telephone number for the processor or re-refiner point of contact;
  - v) The type of transport activity (i.e., transport only, transport and transfer facility, or transfer facility only);
  - vi) The location of all transfer facilities at which used oil is stored;
  - vii) The name and telephone number for a contact at each transfer facility.
- 2) A used oil processor or re-refiner ~~whethat~~ has not received an Illinois special waste identification number may obtain one pursuant to 35 Ill. Adm. Code Part 609 by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, 2200 Churchill Road, Springfield, Illinois 62706 (telephone: 217-782-6761).

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 739.152 General facility standards

- a) Preparedness and prevention. Owners and operators of used oil processors and re-refiners facilities ~~must~~ shall comply with the following requirements:
- 1) Maintenance and operation of facility. Facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water which could threaten human health or the environment.
  - 2) Required equipment. All facilities must be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in subsections (a)(2)(A) through (a)(2)(D) of this Section:
    - A) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;
    - B) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;
    - C) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment and decontamination equipment; and
    - D) Water at adequate volume and pressure to supply water



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hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

- 3) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

- 4) Access to communications or alarm system.

- A) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (a)(2) of this Section.

- B) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (a)(2) of this Section.

- 5) Required aisle space. The owner or operator ~~must~~ shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

- 6) Arrangements with local authorities.

- A) The owner or operator ~~must~~ shall attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:

- i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;
- ii) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

- iii) Agreements with State emergency response teams, emergency response contractors, and equipment

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suppliers; and

- iv) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

- B) Where State or local authorities decline to enter into such arrangements, the owner or operator ~~must~~ shall document the refusal in the operating record.

- b) Contingency plan and emergency procedures. Owners and operators of used oil processors and re-refiners facilities ~~must~~ shall comply with the following requirements:

- 1) Purpose and implementation of contingency plan.

- A) Each owner or operator ~~must~~ shall have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.

- B) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release or used oil which could threaten human health or the environment.

- 2) Content of contingency plan.

- A) The contingency plan must describe the actions facility personnel must take to comply with subsections (b)(1) and (b)(6) of this Section in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility.

- B) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR 112, or 40 CFR 150, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this Part.

- C) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to subsection (a)(6) of this Section.

- D) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (b)(5) of this Section), and this list must be kept up to date. Where more than one person is listed, one must be



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named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

- E) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.
  - F) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires).
- 3) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan must be:
- A) Maintained at the facility; and
  - B) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
- 4) Amendment of contingency plan. The contingency plan must be reviewed, and immediately amended, if necessary, whenever:
- A) Applicable regulations are revised;
  - B) The plan fails in an emergency;
  - C) The facility changes in its design, construction, operation, maintenance, or other circumstances in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;
  - D) The list of emergency coordinators changes; or
  - E) The list of emergency equipment changes.
- 5) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator ~~must~~ be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil

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handled, the location of all records within the facility, the and facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

BOARD NOTE: U.S. EPA cited the following as guidance: The emergency coordinator's responsibilities are more fully spelled out in subsection (b)(6) below. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility.

## 6) Emergency procedures.

- A) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) ~~must~~ shall immediately:
  - i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
  - ii) Notify appropriate State or local agencies with designated response roles if their help is needed.
- B) Whenever there is a release, fire, or explosion, the emergency coordinator ~~must~~ shall immediately identify the character, exact source, amount, and a real extent of any released materials. He may do this by observation or review of facility records of manifests and, if necessary, by chemical analysts.
- C) Concurrently, the emergency coordinator ~~must~~ shall assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water of chemical agents used to control fire and heat-induced explosions).
- D) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, he ~~must~~ shall report his findings as follows:
  - i) If his assessment indicated that evacuation of local areas may be advisable, he ~~must~~ shall immediately notify appropriate local authorities. He ~~must~~ shall be available to help appropriate officials decide whether local areas should be evacuated; and

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ii) He ~~must~~ immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under 40 CFR 1510), or the National Response Center (using their 24-hour toll free number (800) 424-8802). The report must include: Name and telephone number of reporter; Name and address of facility; Time and type of incident (e.g., release, fire); Name and quantity of material(s) involved, to the extent known; The extent of injuries, if any; and The possible hazards to human health, or the environment, outside the facility.

E) During an emergency, the emergency coordinator ~~must~~ take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.

F) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator ~~must~~ monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

G) Immediately after an emergency, the emergency coordinator ~~must~~ provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

H) The emergency coordinator ~~must~~ ensure that, in the affected area(s) of the facility:

i) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and

ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

iii) The owner or operator ~~must~~ notify the Regional Administrator, the Agency, and all other appropriate State and local authorities that the facility is in compliance with subsections (b)(5)(H)(i) and (b)(5)(H)(ii) of this Section before operations are resumed in the affected area(s) of the facility.

I) The owner or operator ~~must~~ note in the operating record the time, date and details of any incident that

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requires implementing the contingency plan. Within 15 days after the incident, he ~~must~~ submit a written report on the incident to the Regional Administrator. The report must include:

i) The ~~n~~Name, address, and telephone number of the owner or operator;

ii) The ~~n~~Name, address, and telephone number of the facility;

iii) The ~~d~~ate, time, and type of incident (e.g., fire, explosion);

iv) The ~~n~~Name and quantity of material(s) involved;

v) The extent of injuries, if any;

vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

vii) The ~~e~~stimated quantity and disposition of recovered material that resulted from the incident.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 739.154 Used oil management

~~A) specified in Section 739.110(f), waste waters containing no minimum quantities of used oil are not subject to the requirements of this Part, including the prohibition on storage in units other than tanks or containers.~~  
 A) Used oil processors are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart. A) used oil generator, processor or refiner ~~are~~ also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart.

a) Management units. Used oil processors shall not store ~~or process~~ used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

b) Condition of units. Containers and aboveground tanks used to store or process used oil at processing facilities must be:

1) In good condition (no severe rusting, apparent structural defects or deterioration); and

2) Not leaking (no visible leaks).

c) Secondary containment for containers. Containers used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

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- 1) The secondary containment system must consist of, at a minimum:
- A) Dikes, berms or retaining walls; and
  - B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
  - C) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- d) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of, at a minimum:
- A) Dikes, berms or retaining walls; and
  - B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
  - C) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) Secondary containment for new aboveground tanks. New aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of, at a minimum:
- A) Dikes, berms or retaining walls; and
  - B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
  - C) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

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- f) Labels.
- 1) Containers and aboveground tanks used to store used oil at processing facilities must be labeled or marked clearly with the words "Used Oil."
- 2) Fill pipes used to transfer used oil into underground storage tanks at processing facilities must be labeled or marked clearly with the words "Used Oil."
- g) Response to releases. Upon detection of a release of used oil to the environment not subject to the requirements of 35 Ill. Adm. Code 731.Subpart F which has occurred after the effective date of the authorized used oil program for the State in which the release is located, a processor ~~must~~shall perform the following cleanup steps:
- 1) Stop the release;
  - 2) Contain the released used oil;
  - 3) Clean up and manage properly the released used oil and other materials; and
  - 4) If necessary to prevent future releases, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.
- h) Closure.
- 1) Aboveground tanks. Owners and operators ~~that~~shall store or process used oil in aboveground tanks ~~that~~shall comply with the following requirements:
- A) At closure of a tank system, the owner or operator ~~must~~shall remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under this chapter.
  - B) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in subsection (h)(1)(A) above, then the owner or operator ~~must~~shall close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills (35 Ill. Adm. Code 725.410).
- 2) Containers. Owners and operators ~~that~~shall store used oil in containers ~~that~~shall comply with the following requirements:
- A) At closure, containers holding used oils or residues of used oil must be removed from the site;
  - B) The owner or operator ~~must~~shall remove or



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decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste 35 Ill. Adm. Code 721.

(Source: Amended at \_\_\_ Ill. Reg. \_\_\_, effective \_\_\_)

## Section 739.156 Tracking

a) Acceptance. Used oil processors ~~shall~~ keep a record of each used oil shipment accepted for processing. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

- 1) The name and address of the transporter ~~that~~ delivered the used oil to the processor;
- 2) The name and address of the generator or processor from whom the used oil was sent for processing;
- 3) The U.S. EPA identification number and Illinois special waste identification number of the transporter ~~that~~ delivered the used oil to the processor;
- 4) The U.S. EPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent for processing;
- 5) The quantity of used oil accepted; and
- 6) The date of acceptance.

b) Deliveries. Used oil processors ~~shall~~ keep a record of each shipment of used oil that is delivered to another used oil burner, processor, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records of each delivery must include the following information:

- 1) The name and address of the transporter ~~that~~ delivers the used oil to the burner, processor or disposal facility;
- 2) The name and address of the burner, processor or disposal facility ~~that~~ will receive the used oil;
- 3) The U.S. EPA identification number and Illinois special waste identification number of the transporter ~~that~~ delivers the used oil to the burner, processor or disposal facility;
- 4) The U.S. EPA identification number and Illinois special waste identification number of the burner, processor, or disposal facility ~~that~~ will receive the used oil;

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- 5) The quantity of used oil shipped;
- 6) The date of shipment.

c) Record retention. The records described in subsections (a) and (b) above must be maintained for at least three years.

(Source: Amended at \_\_\_ Ill. Reg. \_\_\_, effective \_\_\_)

## Section 739.157 Operating record and reporting

a) Operating record.

- 1) The owner or operator ~~shall~~ keep a written operating record at the facility.
- 2) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

- A) Records and results of used oil analyses performed as described in the analysis plan required under Section 739.155; and
- B) Summary reports and details of all incidents that require implementation of the contingency plan as specified in Section 739.152(b).

b) Reporting. A used oil processor ~~shall~~ report to the Regional Administrator, in the form of a letter, on a biennial basis (by March 1 of each even numbered year), the following information concerning used oil activities during the previous calendar year:

- 1) The U.S. EPA identification number and Illinois special waste identification number, name, and address of the processor;
- 2) The calendar year covered by the report; and
- 3) The quantities of used oil accepted for processing and the manner in which the used oil is processed, including the specific processes employed.

(Source: Amended at \_\_\_ Ill. Reg. \_\_\_, effective \_\_\_)

## Section 739.158 Off-site shipments of used oil

Used oil processors ~~that~~ initiate shipments of used oil off-site ~~shall~~ ship the used oil using a used oil transporter ~~that~~ has obtained an U.S. EPA identification number and Illinois special waste identification number.

(Source: Amended at \_\_\_ Ill. Reg. \_\_\_, effective \_\_\_)

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## OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

## Section 739.160 Applicability

a) General. The requirements of this Subpart apply to used oil burners except as specified in subsections (a)(1) and (a)(2) of this Section. A used oil burner is a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a). Facilities burning used oil for energy recovery under the following conditions are not subject to this Subpart:

- 1) The used oil is burned by the generator in an on-site space heater under the provisions of Section 739.123; or
  - 2) The used oil is burned by a processor for purposes of processing used oil, which is considered burning incidentally to used oil processing.
- b) Other applicable provisions. Used oil burners ~~whethat~~ conduct the following activities are also subject to the requirements of other applicable provisions of this Part as indicated below.

- 1) Burners ~~whethat~~ generate used oil ~~metshall~~ also comply ~~with~~ Subpart C of this Part;
- 2) Burners ~~whethat~~ transport used oil ~~metshall~~ also comply with Subpart E of this Part;
- 3) Except as provided in Section 739.161(b), burners ~~whethat~~ process or re-refine used oil ~~metshall~~ also comply with Subpart F of this Part;
- 4) Burners ~~whethat~~ direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 ~~metshall~~ also comply with Subpart H of this Part; and
- 5) Burners ~~whethat~~ dispose of used oil, including the use of used oil as a dust suppressant, ~~metshall~~ comply with Subpart I of this Part.

c) Specification fuel. This Subpart does not apply to persons burning used oil that meets the used oil fuel specification of Section 739.111, provided that the burner complies with the requirements of Subpart H of this Part.

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 739.162 Notification

a) Identification numbers. A ~~used~~ oil burner ~~whethat~~ has not previously ~~emitted~~ ~~with~~ ~~the~~ ~~notified~~ ~~U.S. EPA~~ of its used oil burning activities shall notify U.S. EPA to identify its used oil burning activities pursuant to the requirements of RCRA

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Section 3010. Even if a used oil burner has previously notified U.S. EPA of hazardous waste activities under RCRA Section 3010 and obtained a U.S. EPA identification number, the used oil burner shall renotify U.S. EPA to identify its used oil burning activities ~~and~~. A used oil burner ~~metshall~~ ~~comply~~ ~~with~~ ~~these~~ requirements obtain an Illinois special waste identification number.

b) Mechanics of notification. A used oil burner ~~whethat~~ has not received a U.S. EPA identification number may obtain one by notifying the Regional Administrator of their used oil activity by submitting either:

- 1) A completed EPA Form 8700-12 (To obtain EPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or
- 2) A letter requesting an EPA identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting an EPA identification number. The letter should include the following information:
  - A) ~~B~~The burner company name;
  - B) ~~O~~The owner of the burner company;
  - C) ~~M~~The mailing address for the burner;
  - D) ~~N~~The name and telephone number for the burner point of contact;
  - E) ~~T~~The type of used oil activity; and
  - F) ~~L~~The location of the burner facility.

c) A used oil burner that has not previously obtained an Illinois special waste identification number may obtain one by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, 2200 Churchill Road, Springfield, Illinois 62706 (telephone: 217-782-6761).

(Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 739.164 Used oil storage

~~No specified in Section 739.110(f), wastewaters containing "de minimis" quantities of used oil are not subject to the requirements of this Part including the prohibition on storage in units other than tanks or containers.~~ A used oil burner ~~areis~~ subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart. A used oil generator ~~burner areis~~ also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart.

a) Storage units. Used oil burners may not store used oil in units other than tanks, containers, or units subject to regulation under

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- 35 Ill. Adm. Code 724 or 725.
- b) Condition of units. Containers and aboveground tanks used to store oil at burner facilities must be:
- 1) In good condition (no severe rusting, apparent structural defects or deterioration); and
  - 2) Not leaking (no visible leaks).
- c) Secondary containment for container. Containers used to store used oil at burner facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of, at a minimum:
    - A) Dikes, berms or retaining walls; and
    - B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall.
  - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- d) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of, at a minimum:
    - A) Dikes, berms or retaining walls; and
    - B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
    - C) An equivalent secondary containment system.
  - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) Secondary containment for existing aboveground tanks. New aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of, at a minimum:
    - A) Dikes, berms or retaining walls; and

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- B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
  - C) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- f) Labels.
- 1) Containers and aboveground tanks used to store used oil at burner facilities must be labeled or marked clearly with the words "Used Oil."
  - 2) Fill pipes used to transfer used oil into underground storage tanks at burner facilities must be labeled or marked clearly with the words "Used Oil."
  - g) Response to releases. Upon detection of a release of used oil to the environment not subject to the requirements of 35 Ill. Adm. Code 731-Subpart F which has occurred after the effective date of the authorized used oil program for the State in which the release is located, a burner ~~shall~~ perform the following cleanup steps:
    - 1) Stop the release;
    - 2) Contain the released used oil;
    - 3) Clean up and manage properly the released used oil and other materials; and
    - 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.
- (Source: Amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 739.165 Tracking
- a) Acceptance. Used oil burners ~~shall~~ keep a record of each used oil shipment accepted for burning. These records may take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment must include the following information:
    - 1) The name and address of the transporter ~~that~~ delivered the used oil to the burner;
    - 2) The name and address of the generator or processor from whom the used oil was sent to the burner;
    - 3) The U.S. EPA identification number and Illinois special waste identification number of the transporter ~~that~~ delivered the used oil to the burner;



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- 4) The U.S. EPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent to the burner;
- 5) The quantity of used oil accepted; and
- 6) The date of acceptance.
- b) Record retention. The records described in subsection (a) of this Section must be maintained for at least three years.

(Source: Amended at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Subpart H: STANDARDS FOR USED OIL FUEL MARKETERS

## Section 739.170 Applicability

- a) Any person ~~whethat~~ conducts either of the following activities is subject to the requirements of this ~~Section~~ Subpart:

- 1) Directs a shipment of off-specification used oil from their facility to a used oil burner; or
- 2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.

- b) The following persons are not marketers subject to this Subpart:

- 1) Used oil generators, and transporters ~~whethat~~ transport used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from their facility to a used oil burner. However, processors ~~whethat~~ burn some used oil fuel for purposes of processing are considered to be burning incidentally to processing. Thus, generators and transporters ~~whethat~~ direct shipments of off-specification used oil to processors ~~whethat~~ incidentally burn used oil are not marketers subject to this Subpart;

- 2) Persons ~~whethat~~ direct shipments of on-specification used oil and ~~whethat~~ are not the first person to claim the oil meets the used oil fuel specifications of Section 739.111.

- c) Any person subject to the requirements of this Subpart ~~metshall~~ also comply with one of the following:

- 1) Subpart C of this Part - Standards for Used Oil Generators;
- 2) Subpart E of this Part - Standards for Used Oil Transporters and Transfer Facilities;
- 3) Subpart F of this Part - Standards for Used Oil Processors and Re-refiners; or
- 4) Subpart G of this Part - Standards for Used Oil Burners

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~~whethat~~ Burn Off-Specification Used Oil for Energy Recovery.

(Source: Amended at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 739.171 Prohibitions

A used oil fuel marketer may initiate a shipment of off-specification used oil only to a used oil burner ~~whethat~~:

- a) Has an U.S. EPA identification number and Illinois special waste identification number; and
- b) Burns the used oil in an industrial furnace or boiler identified in Section 739.161(a).

(Source: Amended at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 739.172 On-specification used oil fuel

- a) Analysis of used oil fuel. A generator, transporter, processor, or burner may determine that used oil that is to be burned for energy recovery meets the fuel specifications of Section 739.111 by performing analyses or obtaining copies of analyses or other information documenting that the used oil fuel meets the specifications. ~~Such used oil that is to be burned for energy recovery is not subject to further regulation under this Part.~~

- b) Record retention. A generator, transporter, processor, or burner ~~whethat~~ first claims that used oil that is to be burned for energy recovery meets the specifications for used oil fuel under this Part ~~metshall~~ keep copies of analyses of the used oil (or other information used to make the determination) for three years.

(Source: Amended at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 739.173 Notification

- a) A used oil fuel marketer ~~subject to the requirements of this Section whethat~~ has not previously complied with the notification U.S. EPA of its used oil fuel marketing activities ~~shall notify U.S. EPA to identify those used oil fuel marketing activities. Even if a used oil fuel marketer has previously notified U.S. EPA of hazardous waste management activities under requirements of RCRA Section 3010 and obtained a U.S. EPA identification number, the used oil fuel marketer ~~metshall~~ comply with these requirements~~ notify U.S. EPA to identify its used oil fuel marketing activities and a used oil fuel marketer shall obtain an Illinois special waste identification number.

- b) A used oil marketer ~~whethat~~ has not received an U.S. EPA identification number may obtain one by notifying the Regional Administrator of ~~theits~~ used oil activity by submitting either:

- 1) A completed EPA Form B700-12; or

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- 2) A letter requesting an EPA identification number. The letter should include the following information:
- A) the marketer company name;
  - B) the owner of the marketer;
  - C) the mailing address for the marketer;
  - D) the name and telephone number for the marketer point of contact; and
  - E) the type of used oil activity (i.e., generator directing shipments of off-specification used oil to a burner).
- c) A used oil burner that has not previously obtained an Illinois special waste identification number may obtain one by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, 2200 Churchill Road, Springfield, Illinois 62706 (telephone: 217-782-6761).

(Source: Amended at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 739.174 Tracking

- a) Off-specification used oil delivery. Any used oil ~~generator~~ used oil to a burner ~~must~~ shall keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:
- 1) The name and address of the transporter ~~that~~ that delivers the used oil to the burner;
  - 2) The name and address of the burner ~~that~~ that will receive the used oil;
  - 3) The U.S. EPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner;
  - 4) The U.S. EPA identification number and Illinois special waste identification number of the burner;
  - 5) The quantity of used oil shipped; and
  - 6) The date of shipment.
- b) On-specification used oil delivery. A generator, transporter, processor, or burner ~~that~~ that first claims that used oil that is to be burned for energy recovery meets the fuel specifications under Section 739.111 ~~must~~ shall keep a record of each shipment of used oil to an on-specification used oil burner. Records for each shipment must include the following information:

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- 1) The name and address of the facility receiving the shipment;
  - 2) The quantity of used oil fuel delivered;
  - 3) The date of shipment or delivery; and
  - 4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under Section 739.172(a).
- c) Record retention. The records described in subsections (a) and (b) above must be maintained for at least three years.
- (Source: Amended at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Child Support Enforcement

2) Code Citation: 89 Ill. Adm. Code 160

3) Section Numbers: Proposed Action:

160.60 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 12-13) [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: Pursuant to the 1993 legislative session, these proposed amendments remove guidelines related to the establishment of spousal support. The spousal support guidelines have caused confusion in the past and federal regulations do not allow the Department to establish spousal support. Accordingly, the Department is removing these provisions from its rules.

As a result of these proposed amendments, when determining the ability of responsible relatives to provide child support in Title IV-D cases, the guidelines in Section 160.60 (c)(1) through 160.60(c)(4) will be applied in each case unless if, after considering the best interests of the child, the Department finds that application of the guidelines would be inappropriate. The relevant factors considered when this determination is made include but are not limited to:

- 1) the financial resources and needs of the child;
- 2) the financial resources and needs of the custodial parent;
- 3) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;
- 4) the physical and emotional condition of the child, and his educational needs; and
- 5) the financial resources and needs of the non-custodial parent.

Each order requiring support which deviates from the guidelines will state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines will be included in the order.

These proposed amendments provide that the Department will enter administrative, or request the court to enter, support orders that include a provision requiring the responsible relative to notify the Department, within seven days:

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- 1) of the name and address of any new employer of the responsible relative;
- 2) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and
- 3) if so, the policy name and number and the names of persons covered under the policy.

This rulemaking also establishes that the Department will enter administrative, or request the court to enter, support orders that include a date on which the current support obligation terminates. The termination date will be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support will state that the termination date does not apply to any arrearage that may remain unpaid on that date. The provision of a termination date in the order will not prevent the order from being modified.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

| Sections | Proposed Action | Illinois Register Citation              |
|----------|-----------------|---|
| 160.5    | Amendment       | August 6, 1993 (17 Ill. Reg. 12573)     |
| 160.65   | Amendment       | July 30, 1993 (17 Ill. Reg. 12067)      |
| 160.70   | Amendment       | August 6, 1993 (17 Ill. Reg. 12573)     |
| 160.70   | Amendment       | September 24, 1993 (17 Ill. Reg. 15229) |
| 160.75   | Amendment       | January 3, 1994 (18 Ill. Reg. _____)    |

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may comment on this Proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to Judy Umunna, Bureau of Rules and Regulations, Illinois Department of Public Aid, 100 South Grand Ave. E., 3rd Floor, Springfield, Illinois 62762. The Department will consider all written comments it receives within 30 days after the publication of this notice.



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12) Initial Regulatory Flexibility Analysis:

- A) Date proposed rulemaking was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: Not applicable
- B) Types of small businesses affected: None
- C) Reporting, bookkeeping or other procedures required for compliance: None
- D) Types of professional skills necessary for compliance: None

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER f: COLLECTIONS

PART 160  
CHILD SUPPORT ENFORCEMENT

## SUBPART A: GENERAL PROVISIONS

| Section |  |
|---------|--|
| 160.1   | Incorporation by Reference                         |
| 160.5   | Definitions  |
| 160.10  | Child Support Enforcement Program                  |
| 160.15  | Application Processing Fee for IV-D Non-AFDC Cases |
| 160.20  | Assignment of Rights to Support                    |
| 160.25  | Recoupment   |

## SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

| Section |   |
|---------|---|
| 160.30  | Cooperation With Support Enforcement Program                          |
| 160.35  | Good Cause For Failure to Cooperate With Support Enforcement          |
| 160.40  | Proof of Good Cause For Failure to Cooperate With Support Enforcement |
| 160.45  | Suspension of Child Support Enforcement Upon Finding of Good Cause    |

## SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

| Section |                                      |
|---------|--------------------------------------|
| 160.60  | Establishment of Support Obligations |
| 160.65  | Modification of Support Obligations  |

## SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

| Section |   |
|---------|---|
| 160.70  | Enforcement of Support Orders   |
| 160.75  | Withholding of Income to Secure Payment of Support                    |
| 160.77  | Past Due Support Information to State Occupational Licensing Agencies |
| 160.80  | Amnesty - 20% Charge  |
| 160.85  | Diligent Efforts to Serve Process                                     |

## SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

| Section |                                   |
|---------|-----------------------------------|
| 160.90  | Earmarking Child Support Payments |

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## SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

- Section  
160.100 Distribution Of Child Support For AFDC Recipients  
160.110 Distribution Of Child Support For Former AFDC Recipients Who Continue To Receive Child Support Enforcement Services  
160.120 Distribution Of Child Support Collected While The Client Was An AFDC Recipient, But Not Yet Distributed At The Time The AFDC Case Is Cancelled  
160.130 Distribution Of Intercepted Income Tax Refunds and Other State Payments  
160.132 Distribution of Child Support for Non-AFDC Clients  
160.134 Distribution of Child Support For Interstate Cases  
160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases  
160.138 Distribution of Child Support for Medical Assistance No Grant Cases

## SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

- 160.140 Statement Of Child Support Account Activity

## SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

- 160.150 Department Review Of Distribution Of Child Support For AFDC Recipients  
160.160 Department Review Of Distribution Of Child Support For Former AFDC Recipients

**AUTHORITY:** Implementing and authorized by Sections 4-1.7, 10-1 et seq., 12-4.3, and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 4-1.7, 10-1 et seq., 12-4.3 and 12-13) [305 ILCS 5/4-1.7, 10-1, 12-4.3 and 12-13]

**SOURCE:** Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 16 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill.

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Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**NOTE:** CAPITALIZATION DENOTES STATUTORY LANGUAGE.

## SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

## Section 160.60 Establishment of Support Obligations

## a) Definitions

- 1) "FSS" means any Family Support Specialist performing assigned duties, his supervisory staff and any other person assigned responsibility by the Director of the Department.
- 2) "Service" or "Served" means notice given by certified mail, return receipt requested, or by any method provided by law for service of summons. (See Sections 2-203 and 2-206 of the Civil Practice Law (Ill. Rev. Stat. 1989 1991, ch. 110, pars. 2-203 and 2-206) [735 ILCS 5/2-203 and 2-206]).

## 3) "Support Statutes" means the following:

- A) Article X of The Illinois Public Aid Code (Ill. Rev. Stat. 1989 1991, ch. 23, par. 10-1 through par. 10-19) [305 ILCS 5/10-1 through 10/19];
- B) The Illinois Marriage and Dissolution of Marriage Act (Ill. Rev. Stat. 1989 1991, ch. 40, par. 101 et seq.) [750 ILCS 5/101];
- C) The Non-Support of Spouse and Children Act (Ill. Rev. Stat. 1989 1991, ch. 40, par. 1101 et seq.) [750 ILCS 15/11];
- D) The Revised Uniform Reciprocal Enforcement of Support Act (Ill. Rev. Stat. 1989 1991, ch. 40, par. 1201 et seq.) [750 ILCS 20/1];
- E) The Illinois Parentage Act of 1984 (Ill. Rev. Stat. 1989, ch. 40, par. 2501 et seq.) [750 ILCS 45/1]; and
- F) Any other statute in another state which provides for child and-spouse support.

## b) Responsible Relative Contact

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## Section 160.60(b) (continued)

## 1) Timing and Purpose of Contact

- A) The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.
- B) The purpose of contact and interview shall be to obtain relevant facts including income information (e.g., paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.

## 2) At least 5 working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:

- A) the Title IV-D case name and identification number;
- B) the names and birthdates of the persons for whom support is sought or other information identifying such persons, such as a prior court number;
- C) that the responsible relative has a legal obligation to support the named persons;
- D) the date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and
- E) that the responsible relative should bring specified information regarding his income and resources to the interview.

## 3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that he the client may attend if he or she chooses.

## c) Determination of Financial Ability

- 1) The Department shall use the guidelines set forth below to determine the financial ability of responsible relatives to provide support in Title IV-D cases.

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## Section 160.60(c) (continued)

## 2) The minimum amount of child support to be established shall be determined as follows:

| Number of Children | Percent of Responsible Relative's Net Income |
|--------------------|--|
| 1                  | 20%  |
| 2                  | 25%  |
| 3                  | 32%  |
| 4                  | 40%  |
| 5                  | 45%  |
| 6 or more          | 50%  |

## 3) The minimum amount of child and spouse support to be established shall be determined as follows:

| Number of Children | Percent of Responsible Relative's Net Income |
|--------------------|--|
| 1                  | 30%  |
| 2                  | 35%  |
| 3                  | 45%  |
| 4                  | 50%  |
| 5 or more          | 55%  |

## 4) "Net Income" is the total of all income from all sources, minus the following deductions:

- A) Federal income tax (properly calculated withholding or estimated payments);
- B) State income tax (properly calculated withholding or estimated payments);
- C) Social Security (FICA payments);
- D) Mandatory retirement contributions required by law or as a condition of employment;
- E) Union dues;
- F) Dependent and individual health/hospitalization insurance premiums;
- G) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;



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## Section 160.60(c)(4) (continued)

- H) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
- I) Medical expenditures necessary to preserve life or health; and
- J) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.
- 5)4) The deductions in subsections (4)(H) (3)(H), (I) and (J) above shall be allowed only for the period that such payments are due. The Department shall enter administrative, or request the court to enter, support orders which contain provisions for an automatic increase in the support obligation upon termination of such payment period.

6)5) The above guidelines shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors: after considering evidence presented on all relevant factors, finds a reason for deviating from the guidelines as follows:

- A) For child support, relevant factors include, but are not limited to, the following:
- i) the financial resources and needs of the child;
  - ii) the financial resources and needs of the custodial parent;
  - iii) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;
  - iv) the physical and emotional condition of the child, and his educational needs; and
  - v) the financial resources and needs of the non-custodial parent.
- B) For child and spouse support, additional relevant factors include, but are not limited to, the following:

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## Section 160.60(c)(5)(B)(i) (continued)

- ii) the financial resources of the spouse seeking support, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with him includes a sum for him as custodian;
- iii) the time necessary to acquire sufficient education or training to enable the spouse seeking support to find appropriate employment;
- iii) the standard of living established during the marriage;
- iv) the duration of the marriage;
- v) the age and the physical and emotional condition of both parties;
- vi) the ability of the spouse from whom support is sought to meet his needs while meeting those of the spouse seeking support; and
- vii) the tax consequences of the property division upon the respective economic circumstances of the parties.

6)6) Each order requiring support which deviates from the guidelines shall state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order contain express findings of the reasons for the different amount.

- 7) In cases where health/hospitalization insurance coverage is not being furnished by the responsible relative to a child to be covered by a support order, the Department shall enter administrative, or request the court to enter support orders requiring the relative to provide such coverage when a child can be added to an existing insurance policy at reasonable cost. However, in Title IV-D non-AFDC cases where the client is neither an applicant for nor a recipient of Medical Assistance, the Department shall enter or request such support orders only with the client's consent. Net income shall be reduced by the cost thereof in determining the minimum amount of support to be ordered.
- 8) The final order in all cases shall state the support level in dollar amounts.

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## Section 160.60(c) (continued)

- 9) If there is no net income because of the unemployment of a responsible relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving AFDC in Illinois, the Department, when proceeding under subsection (d) below, shall order, or, when proceeding under subsection (e) below, shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives under Section 9-6 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989 1991, ch. 23, par. 9-6) [305 ILCS 5/9-6].
- 10) The Department shall enter administrative, or request the court to enter, support orders that include a provision requiring the responsible relative to notify the Department, within seven days:
- A) of the name and address of any new employer of the responsible relative;
  - B) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and
  - C) if so, the policy name and number and the names of persons covered under the policy.
- 11) The Department shall enter administrative, or request the court to enter, support orders that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the termination date does not apply to any arrearage that may remain unpaid on that date. The provision of a termination date in the order shall not prevent the order from being modified.
- d) Administrative Process
- 1) Use of Administrative Process
    - A) Department FSS's shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
      - A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the FSS shall enter an administrative support order by default, except as provided in subsection (d)(3)(C) below. The terms of the order shall be based upon the needs of the persons for whom support is sought, as furnished by affidavit of the IV-D client. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served with a notice of support obligation.
      - B) The FSS shall issue a subpoena to a responsible relative who fails to appear for interview, or who appears and

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## Section 160.60(d)(1)(A) (continued)

- i) presumed paternity as set forth in Section 5 of the Illinois Parentage Act (Ill. Rev. Stat. 1989 1991, ch. 40, par. 2505) [750 ILCS 45/5] and support is sought from one or both parents; and
  - ii) alleged paternity and support is sought from the mother.
- B) In addition to those items specified in subsection (b)(2) above, the notice of support obligation shall inform the responsible relative of the following:
- i) that he may be liable for reimbursement of public assistance furnished the named persons prior to determination of the ability to support; and
  - ii) that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the guidelines.
- 2) The FSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) above when such relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered which shall incorporate the resulting support amount therein.
- 3) Failure to Appear
- A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the FSS shall enter an administrative support order by default, except as provided in subsection (d)(3)(C) below. The terms of the order shall be based upon the needs of the persons for whom support is sought, as furnished by affidavit of the IV-D client. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served with a notice of support obligation.
  - B) The FSS shall issue a subpoena to a responsible relative who fails to appear for interview, or who appears and

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## Section 160.60(d)(3)(B) (continued)

furnishes income information, when the FSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:

- i) financial ability, as determined from the guidelines contained in subsection c) above, exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A) above, or
  - ii) income exceeds that reported by the relative.
- C) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued to him pursuant to subsection (d)(3)(B) above, the FSS shall enter a temporary administrative support order by default, in accordance with subsection (d)(3)(A) above, and shall then seek establishment of support obligations through the judicial process pursuant to subsection (e) below.

## 4) Registration of Order

- A) The FSS shall register a support order entered by a court or administrative body of any other state referred for establishment and enforcement of an Illinois support obligation, on behalf of persons receiving Title IV-D services from such state, upon receipt of the following:
  - i) the referring state's IV-D case name and identification number;
  - ii) the names and birthdates of the persons for whom support is ordered;
  - iii) a certified copy of the support order with all modifications;
  - iv) a certified copy of an order for withholding, if any, still in effect;
  - v) a certified copy of the payment record or, if there is no payment record, an affidavit attesting to the amount of arrearage which has accrued under the support order;
  - vi) the name, address, and social security number of the responsible relative; and

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## Section 160.60(d)(4)(A) (continued)

- vii) the name and address of the responsible relative's employer or any other source of income of the relative from which withholding may be effected, if known.
- B) When registered such order shall become an administrative support order of the Department. The FSS shall enter a separate administrative support order of the Department which shall contain the terms of the registered order.

## 5) An administrative support order shall include the following:

- A) the Title IV-D case name and identification number;
  - B) the names and birthdates of the persons for whom support is ordered;
  - C) the beginning date, amount and frequency of support;
  - D) the manner in which support payments are to be made; and
  - E) a statement informing the responsible relative that he has 30 days from the date of mailing of the administrative support order in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102.
- 6) Upon entry of any administrative support order, the FSS shall enter a separate administrative order for withholding, based upon and in the same manner as prescribed in Section 160.75. The order shall inform the responsible relative of the grounds for a petition and the time within which to petition the Department to stay service of or to modify, suspend or terminate the order for withholding, or to stay service of the notice of delinquency and receive a hearing in accordance with 89 Ill. Adm. Code 104.104.
- 7) The FSS shall provide to each responsible relative a copy of each administrative order for support and for withholding entered by:
- A) delivery at the conclusion of an interview where financial ability to support was determined. An acknowledgement of receipt signed by the relative or an affidavit of delivery signed by the FSS shall be sufficient for purposes of notice.



## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

## Section 160.60(d)(7) (continued)

- B) certified mail where the relative fails or refuses to accept delivery or the orders are entered by default.
- C) service in the case of registration of the support orders of another state. A copy of such state's orders shall be served with those of the Department.

- 8) The FSS shall provide to each Title IV-D client a copy of each administrative order for support and for withholding entered.

## e) Judicial Process

- 1) Department FSS's shall refer Title IV-D cases for court action to establish support obligations of responsible relatives, pursuant to the support statutes (See subsection (a)(3) above) in matters requiring the determination of parentage, in those wherein the court has acquired jurisdiction previously and in instances described in subsection (d)(3)(C) above.
- 2) The FSS shall prepare and transmit pleadings and obtain or affix appropriate signature thereto which pleadings shall include, but not be limited to, petitions to:

- A) intervene;
- B) modify;
- C) change payment path;
- D) establish an order for support;
- E) establish retroactive support;
- F) establish past-due support;
- G) obtain an order for withholding;
- H) establish parentage;
- I) obtain a rule to show cause; and
- J) combinations of the above.

(Source: Amended at 17 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Access to Information
- 2) Code Citation: 2 Ill. Adm. Code 926
- 3) Section Numbers: Adopted Action:
- |         |                     |
|---------|---------------------|
| 926.10  | Repealed            |
| 926.20  | Renumbered          |
| 926.110 | Repealed            |
| 926.120 | Repealed            |
| 926.130 | Repealed            |
| 926.200 | Renumbered, amended |
| 926.210 | Amended             |
| 926.220 | Repealed            |
| 926.230 | Amended             |
| 926.231 | Renumbered, amended |
| 926.235 | Renumbered, amended |
| 926.236 | Renumbered, amended |
| 926.240 | Renumbered          |
| 926.250 | Amended             |
| 926.260 | Amended             |
| 926.270 | Amended             |
| 926.280 | Renumbered          |
| 926.290 | Renumbered          |
- 4) Statutory Authority: Implementing Section 5-15 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005-15) [5 ILCS 100/5-15] and the Freedom of Information Act (Ill. Rev. Stat. 1991, ch. 116, par. 201 et seq.) [5 ILCS 140/1 et seq.], and authorized by Section 7-101(A) of the Illinois Human Rights Act (Ill. Rev. Stat. 1991, ch. 68, par. 7-101(A)) [775 ILCS 5/7-101 (A)].
- 5) Effective Date of Rule(s): January 4, 1994
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rule contain incorporations by reference? No.
- 8) Date filed in Agency's Principal Office: January 4, 1994
- 9) Notice(s) of Proposal Published in Illinois Register:  
Did not require notice of proposal.
- 10) Has JCAR issued a Statement of Objections to these rules? No.
- 11) Difference(s) between proposal and final version: Did not require notice of proposal.

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Does not apply.
- 13) Will this rule replace an emergency rule currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and Purpose of Rule(s): These Rules explain the procedures by which people may request and obtain public information concerning charges of discrimination.
- 16) Information and questions regarding these adopted amendments shall be directed to:

David T. Rothal  
Staff Attorney  
Illinois Department of Human Rights  
100 West Randolph Street  
Suite 10-100  
Chicago, IL 60601  
Telephone number: 312-814-6242  
T.D.D.: 312-263-1579

The full text of the Adopted Amendments begins on the next page:

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE D: CODE DEPARTMENTS  
CHAPTER X: DEPARTMENT OF HUMAN RIGHTS

PART 926  
ACCESS TO INFORMATION

## SUBPART A: INTRODUCTION GENERAL PROVISIONS

Section  
926.10  
926.20

Summary and Purpose (Repealed)  
Definitions (Renumbered)

## SUBPART B: PUBLIC INFORMATION

Section  
926.110  
926.120  
926.130

Publications (Repealed)  
Speakers Bureau (Repealed)  
Requests and Inquiries (Repealed)

## SUBPART C: ACCESS TO RECORDS

Section  
926.20  
926.210  
926.220  
926.230  
926.240  
926.290  
926.280

926.200 Definitions  
Investigation Records and Files  
Conciliation Records (Repealed)  
Public Contracts Records  
926.231 Other Record Systems  
926.235 Access by Governmental Agencies  
926.236 Copies

## SUBPART B: FOIA

Section  
926.240  
926.250  
926.260  
926.270  
926.280  
926.290

Other Record Systems (Renumbered)  
Requests for Access to Records  
Department's Response to Request  
Appeal of Denial of Access  
Copies (Renumbered)  
Access by Governmental Agencies (Renumbered)

AUTHORITY: Implementing Section 4-01 5-15 of the Administrative Procedure Act (Ill. Rev. Stat. 1983 1991, ch. 127, par. 1004-01 1005-15) [5 ILCS 100/5-15] and the Freedom of Information Act (Supp. to Ill. Rev. Stat. 1983 1991, ch. 116, pars. 201 et seq.) [5 ILCS 140/1 et seq.], and authorized by Section 7-101(A) of the Human Rights Act (Ill. Rev. Stat. 1983 1991, ch. 68; par. 7-101(A)) [775 ILCS 5/7-101(A)].

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

SOURCE: Access to Records rules adopted November 17, 1975 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; amended at 7 Ill. Reg. 7940, effective July 1, 1983; repealed by operation of law October 1, 1984; new rules adopted at 8 Ill. Reg. 20678, effective October 10, 1984; amended at 10 Ill. Reg. \_\_\_\_\_, effective January 4, 1994.

## SUBPART A: INTRODUCTION GENERAL PROVISIONS

## Section 926.10 Summary and Purpose (Repealed)

The rules in this Part describe the types of materials and information regularly made available by the Department of Human Rights for public consumption. They set forth the manner in which requests for publications and other public information may be addressed to the Department; and they explain how the Illinois Freedom of Information Act applies to records maintained by the Department.

(Source: Repealed at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994.)

## Section 926.20 Definitions (Renumbered)

(Source: Section 926.20 renumbered to 926.200 at 10 Ill. Reg. \_\_\_\_\_, effective January 4, 1994.)

## SUBPART B: PUBLIC INFORMATION

## Section 926.110 Publications (Repealed)

The Department publishes printed matter describing its activities and summarizing individuals' rights and responsibilities under the Human Rights Act. Publications include the Department's annual reports filed with the Governor and General Assembly, interpretive regulations explaining provisions of the law, and several special-purpose brochures and guides. In addition, the Department operates a speakers bureau and responds to individual inquiries and requests for information.

(Source: Repealed at 10 Ill. Reg. \_\_\_\_\_, effective January 4, 1994.)

## Section 926.120 Speakers Bureau (Repealed)

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

a) The Speakers Bureau makes Department officers and employees available, to the extent possible, to address or attend meetings of groups concerned with issues arising under the Human Rights Act. Requests for speakers should be made in writing, at least ten days in advance of the date for which a speaker is sought. The written request should include:

- 1) the name of the requesting organization;
- 2) a brief description of the organization;
- 3) the date, time and place at which the speaker is requested;
- 4) the nature of the event, including the expected size of the audience or assembly;
- 5) the subject or topic area to be discussed by the speaker; and
- 6) the name and telephone number of a contact person;

b) The request should be addressed to: Speakers Bureau, Department of Human Rights, 32 West Randolph Street, Suite 900, Chicago, Illinois 60601. On receipt of the request, a Department representative will call the designated contact person to discuss the request.

(Source: Repealed at 10 Ill. Reg. \_\_\_\_\_, effective January 4, 1994.)

## Section 926.130 Requests and Inquiries (Repealed)

Requests for printed matter and individual inquiries regarding Department operations may be made in writing, by telephone (including Telecommunications Device for the Deaf-TDD), or by personal visit to the Department's offices. Written requests should be as specific as possible and addressed to: Public Information, Department of Human Rights, 32 West Randolph Street, Suite 900, Chicago, Illinois 60601. Telephone inquiries should be made by calling (312) 793-6490 or (212) 705-5100. The Department's TDD can be reached by dialing (212) 705-5119. The Department's offices are located, in Chicago, at the address referenced above, and in Springfield, at Room 623 of the Stratton Office Building, Springfield 62706.



## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

(Source: Repealed at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## Section 926-20 926.200 Definitions

**Where** When used in this part, unless the context otherwise clearly requires:

The term "Act" shall mean the Illinois Human Rights Act 7 (Ill. Rev. Stat. 1983 1991, ch. 68, pars. 1-101 et seq.) [775 ILCS 5/1-101].

The term "Charge" shall mean the document alleging a civil rights violation which is filed with or initiated by the Department in accordance with Section 7-102(A) 7A-102 or 7B-102 of the Act (Ill. Rev. Stat. 1983 1991, ch. 68, pars. 7-102(A) 7A-102 and 7B-102) [775 ILCS 5/7A-102 and 5/7B-102].

The term "Department" shall mean the Department of Human Rights, its employees and agents.

The term "Director" shall mean the Director of the Department or a duly authorized designee.

The term "Freedom of Information Act" or "FOIA" shall mean the Illinois Freedom of Information Act (Supp. to Ill. Rev. Stat. 1983 1991, ch. 116, pars. 201 et seq.) [5 ILCS 140/1 et seq.].

(Source: Section 926.200, renumbered from 926.20 and amended at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## SUBPART C: ACCESS TO RECORDS

## Section 926.210 Investigation Records and Files

The contents of any files maintained by the Department or Department employees pertaining to the investigation of individually-filed and Department-issued charges, including but not limited to all documents, statements, notes, memoranda, correspondence, exhibits and any reports or summaries prepared by or on the behalf of the Department employees, as well as the identities of any parties or witnesses in such matters, shall be confidential and not subject to public disclosure, except that:

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

a) the parties to any individually-filed charge may inspect any such file upon making arrangements with the Department, at any time subsequent to the Department's written notification of Substantial Evidence, or dismissal or administrative closure of the charge; or commencement of conciliation efforts after filing a complaint, a petition for entry of a default order, or a settlement agreement with the Human Rights Commission. However, the Department shall not allow parties to inspect certain materials which include, but are not limited to:

- 1) internal memoranda;
- 2) work papers, or notes or other materials reflecting the deliberative processes, mental impressions, or legal theories and advice of the Department;
- 3) material generated in preparation for judicial or Commission proceedings except as authorized under applicable discovery regulations; or
- 4) any documents maintained by the Department pertaining to conciliation or other settlement efforts conducted upon any charge, including but not limited to any reports furnished to or prepared by the Department in connection with such conciliation efforts, unless all parties and the Department agree in writing to disclosure and to the persons to whom they may be disclosed;

b) the respondent in any Department-issued charge may inspect such a file upon making arrangements with the Department at any time after dismissal of the charge, or after the filing of a complaint with the Human Rights Commission to the extent permitted under the Commission's discovery rules;

c) the parties to any charge to which Section 9-102(B)(1) of Act (Ill. Rev. Stat., ch. 68, par. 9-102(B)(1)) applies may inspect the file upon making arrangements with the Department;

b d) upon request, the Department will may acknowledge publicly the existence of a charge, including the identities names of the parties and the stage of proceedings at which it is pending;

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

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c e) after the filing of a complaint with the Commission or the institution of judicial proceedings involving a charge, the Department will Director may release information pertaining to the charge if:

(A) 1) such information is requested of the Department, or

(B) 2) the Department Director finds such information newsworthy, useful in education or training materials, relevant to an issue before the General Assembly, or similarly appropriate for disclosure;

d) if the Director determines that the disclosure of such information is in the public interest, at any stage of proceedings, the Director may authorize release;

e) the Director may authorize the release of information in a file to litigants for use in litigation;

f) notwithstanding any other provision of this Section, the Department Director may assert a privilege with respect to any item available for inspection by a party hereunder if, in the Department's judgment, disclosure thereof might jeopardize or prejudice pending proceedings or reveal the identity of a confidential informant, or if such item otherwise qualifies for a privilege against disclosure under applicable law. The Department shall not allow parties to inspect internal memoranda, work papers, or notes or other materials reflecting the deliberative processes, mental impressions, or legal theories and advice of Department staff, or material generated in preparation for judicial or Commission proceedings except as authorized under applicable discovery regulations.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## Section 926.220 Conciliation Records (Repealed)

The contents of any files maintained by the Department or Department employees pertaining to conciliation efforts conducted upon any charge, including but not limited to any correspondence, notes, notices, memoranda, documents or reports furnished to or prepared by the Department or its staff in connection with such

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

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conciliation efforts, shall be confidential and not subject to public disclosure unless the parties otherwise agree in writing, except that the parties may inspect documents previously supplied by or to them in connection with the charge.

(Source: Repealed at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## Section 926.230 Public Contracts Records

a) Every Employer Report Form (Form PC-1 or Illinois 442-0010), Affirmative Action Progress Report (Form PE-4), and Construction Employee Utilization Projection (Form PC-2), filed with or submitted to the Department in compliance with 44 Ill. Adm. Code 750.210 and 750.220, shall may be available for public inspection at the Department's Chicago office upon reasonable notice request. Other reports, and any correspondence, documents and information submitted to the Department pursuant to 44 Ill. Adm. Code 750.140 shall may be made available for public inspection, if at all, only after at least forty-eight hours two days notice to the public contractor to which the material pertains. However, the Department shall not allow inspection of:

- 1) internal memoranda;
- 2) work papers, or notes or other materials reflecting the deliberative processes, mental impressions or legal theories and advice of the Department staff; or
- 3) wage or salary information submitted by an employer as part of its response to a Public Contracts Unit documentation request, unless this information has been used by the Department to investigate a charge of discrimination and has been included in the file for such a charge, in which case the provisions of Section 926.210 will apply.

b) Notwithstanding any other provision of this Section, the Director may assert a privilege with respect to any item available for inspection if disclosure might jeopardize or prejudice pending proceedings or reveal the identity of a confidential informant, or if such item otherwise qualifies for a privilege against disclosure under applicable law.



## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, January 4, 1994)

### Section 926-240 926.231 Other Record Systems

A catalog of the types of record systems maintained by the Department, compiled in compliance with Section 5 of the Freedom of Information Act FOIA, is may be made available for inspection and copying at the Department upon request made in accordance with Section 926-130 926.250 of this Part.

(Source: Section 926.231 renumbered from 926.240 and amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, January 4, 1994)

### Section 926-290 926.235 Access by Governmental Agencies

Nothing in this Subpart Part shall preclude the Department from sharing materials in its files with other agencies of federal, state or local government having concurrent jurisdiction, pursuant to such agreements as the Director may approve with such agencies. All such agreements, which shall themselves be available for public inspection, shall include a clause whereby the other signatory agrees to observe the confidentiality imposed by the Department's regulations. A federal agency with which the Department has such an agreement may, however, to the extent required by the federal Freedom of Information Act (5 U.S.C. 552), allow inspection and copying of materials obtained from the Department.

(Source: Section 926.235 renumbered from 926.290 and amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, January 4, 1994)

### Section 926-280 926.236 Copies

The Department shall may furnish copies of documents which are available for inspection under this Subpart Part and the FOIA at a charge of twenty fifty cents per page, legal- or letter-size, plus postage and handling if the copies are mailed. Copies shall not be released to the requester until payment in full of the copying and postage fees has been received by the Department. If payment is not received within 15 days after the Department has notified the requestor of the charges, the Department shall consider the request withdrawn. The Department may have private photocopy services perform such copying and may form agreements with such services for charges for copying, postage and handling. Upon request, the Director may fully or partially waive any fees if

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

he/she determines it is in the public interest.

(Source: Section 926.236 renumbered from 926.280 and amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, January 4, 1994)

### Section 926.240 Other Record Systems (Renumbered)

(Source: Section 926.240 renumbered to 926.231 at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, January 4, 1994)

### SUBPART B: FOIA

### Section 926.250 Requests for Access to Records

Requests under the Freedom of Information Act FOIA for access to public records maintained by the Department shall be made in writing and submitted to: Public Information FOIA Officer, Department of Human Rights, 32 100 West Randolph Street, Room 900 Suite 10-100, Chicago, Illinois 60601. Each request should be clearly marked "ATTN: FOIA Request." If an individual is unable, because of disability, to prepare a written request, the request may be submitted by telephone to the FOIA Officer. The request must include the requester's full name, address and telephone number; a description of the specific records sought; and a statement as to whether the request is for inspection of the records, for copying of them, or both. Oral requests for access to records will be accepted, but will not trigger the required response times and appeal rights set forth hereinafter in this Part.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, January 4, 1994)

### Section 926.260 Department's Response to Request

a) The Department shall respond to a written request for public records within 7 seven working days after its receipt of the a request unless, within that period, the Department notifies the requester that it will require an extension of up to 7 seven additional working days to respond. A notice of such an extension shall state the reasons why the extension is needed, and the date when a response will be forthcoming. The Department's failure to respond within the prescribed period of time may be treated by the requester as a denial.

b) If the Department approves a request for public to inspect records, it shall notify the requester that the



## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

records will be made available for inspection at the Department's Chicago offices. If the request is for copies of the requested records, the copies shall be made available after the requester has tendered to the Department full payment for the applicable copying fees in accordance with Section 926.236.

- c) If the Department denies a written request for public records, in whole or in part, its denial shall be in writing from the Department's public information FOIA Officer and shall state the reasons for the denial under Sections 3(f) and/or 7 of the FOIA. The notice of denial shall also provide the names and title of each person responsible for the denial, and shall notify the requester that the denial may be appealed to the Director.
- d) If the denial goes to only a part of the requested records, the notice shall advise how and when the request will otherwise be granted. A categorical request for records which is unduly burdensome to the Department shall be denied only after affording the requester an opportunity to confer and to narrow the request to manageable proportions. The Department's failure to respond to a request within the period of time prescribed in Section 926-260(a) of this Part may be treated by the requester as a denial of the request.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## Section 926.270 Appeal of Denial of Access

- a) A person whose written request for public records has been denied by the Department's Public Information Officer may appeal the denial to the Director. The appeal shall be made by submitting a written notice of appeal to the Director, Department of Human Rights, 32 100 West Randolph Street, Room 900 Suite 10-100, Chicago, Illinois 60601. If an individual is unable, because of disability, to submit a written appeal, the appeal may be by telephone to the Director. The notice of appeal should must be clearly designated marked "ATTN: FOIA Appeal", and must include a copy of the original request, a copy of the denial (if any), and a statement of the reasons why the appeal should be granted, and must be

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

postmarked within 15 days of the Department's sending notice of the denial.

- b) The Director shall determine respond to an requester's appeal within 7 seven working days after its receipt.
- c) If the appeal is Director granted the appeal, a written notice to that effect shall be sent to the requester advising how and when the requested records will be made available.
- d) If the Director appeal is denied the appeal, in whole or in part, written notice of the denial shall advise the requester that judicial review of the denial is available under Section 11 of the FOIA.
- e) The Director's failure to ~~determine~~ respond to a proper appeal within 7 seven working days after its receipt may be treated by the requester as a denial of the appeal.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## Section 926.280 Copies (Renumbered)

(Source: Section 926.280 renumbered to 926.236 at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## Section 926.290 Access by Governmental Agencies (Renumbered)

(Source: Section 926.290 renumbered to 926.235 at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Rulemaking and Organization
- 2) Code Citation: 2 Ill. Adm. Code 925
- 3) Section Numbers: Adopted Action:
- |         |          |
|---------|----------|
| 925.10  | Repealed |
| 925.110 | Amended  |
| 925.120 | Repealed |
| 925.210 | Amended  |
| 925.220 | Repealed |
| 925.230 | Repealed |
| 925.240 | Repealed |
| 925.250 | Amended  |
- Appendix A
- 4) Statutory Authority: Implementing Section 5-15 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005-15) [5 ILCS 100/5-15] and authorized by Section 7-101(A) of the Illinois Human Rights (Ill. Rev. Stat. 1991, ch. 68, par. 7-101(A)) [775 ILCS 5/7-101(A)].

5) Effective Date of Rule(s): January 4, 1994

6) Does the rulemaking contain an automatic repeal date? No.

7) Does this rule contain incorporations by reference? No.

8) Date filed in Agency's Principal Office: January 4, 1994

9) Notice(s) of Proposal Published in Illinois Register:  
Did not require notice of proposal.

10) Has JCAR issued a Statement of Objections to these rules? No.

11) Difference(s) between proposal and final version: Did not require notice of proposal.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Does not apply.

13) Will this rule replace an emergency rule currently in effect? No.

14) Are there any amendments pending on this Part? No.

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of the Rule(s): These Rules explain the organization of the Department and the procedures by which the Department amends its rules.
- 16) Information and questions regarding these adopted amendments shall be directed to:

David T. Rothal  
Staff Attorney  
Illinois Department of Human Rights  
100 West Randolph Street  
Suite 10-100  
Chicago, IL 60601  
Telephone Number: 312-814-6242  
T.D.D.: 312-263-1579

The full text of the Adopted Amendments begins on the next page:

## ILLINOIS REGISTER

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION  
 SUBTITLE D: CODE DEPARTMENTS  
 CHAPTER X: DEPARTMENT OF HUMAN RIGHTS

## PART 925

## PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

## SUBPART A: PUBLIC INFORMATION

## Section

925.10 Public Information (Repealed)

## SUBPART B A: RULEMAKING

## Section

925.110 Procedure Rulemaking

925.120 Petition for Rulemaking (Repealed)

## SUBPART C B: ORGANIZATION

## Section

925.210 Structure of the Department

925.220 Administration Division (Repealed)

925.230 Legal Division (Repealed)

925.240 Charge Processing Division (Repealed)

925.250 Compliance Division (Repealed)

## Appendix A Organizational Chart

AUTHORITY: Implementing Section 4-01 5-15 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983 1991, ch. 127, par. 1084-01 1005-15) [5 ILCS 100/5-15] and authorized by Section 7-101(A) of the Illinois Human Rights Act (Ill. Rev. Stat. 1983 1991, ch. 68, par. 7-101(A)) [775 ILCS 5/7-101(A)].

SOURCE: Rulemaking rules adopted at 2 Ill. Reg. 36, p. 32, effective September 1, 1978, by the Fair Employment Practices Commission, transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; repealed by operation of law October 1, 1984; new rules adopted at 8 Ill. Reg. 20689, effective October 10, 1984; amended at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994.

## SUBPART A: PUBLIC INFORMATION

Section 925.10 Public Information (Repealed)

## ILLINOIS REGISTER

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

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For detailed information concerning obtaining information from the Department of Human Rights, see the Department's rules entitled "Access to Information" (2 Ill. Adm. Code 926).

(Source: Repealed at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994.)

## SUBPART B A: RULEMAKING

## Section 925.110 Procedure Rulemaking

Any person may request that the Department promulgate, amend or repeal a rule by submitting a written petition to the Director. The petition shall be typewritten on standard letter-size paper, shall set forth in particular the rulemaking action desired, and should contain the person's arguments or reasons in support thereof. At least two copies shall be sent or delivered to the Director at the Department's Chicago office. Any petition filed in accordance herewith shall be considered by the Director and the petitioner shall be notified in writing as to its disposition. The Director shall not hear oral arguments or presentations upon such a petition unless clarification of the issues raised therein is desired. Proposed amendments to the Department's rules may be initiated by the Director, or by others as set forth in Section 925.120 hereof. If the proposed amendments are approved by the Director, the rulemaking provisions of the Illinois Administrative Procedure Act shall be followed in adopting the amendment.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994.)

## Section 925.120 Petition for Rulemaking (Repealed)

Any person may request that the Department promulgate, amend or repeal a rule by submitting a written petition to the Director. The petition shall be typewritten on standard letter-size paper, shall set forth in particular the rulemaking action desired, and should contain the person's arguments or reasons in support thereof. At least two copies shall be sent or delivered to the Director at the Department's Chicago office. Any petition filed in accordance herewith shall be considered by the Director and the petitioner shall be notified in writing as to its disposition. Any rulemaking undertaken in response to such petition shall be governed by the rulemaking provisions of the Illinois Administrative Procedure Act. The Director shall not hear oral arguments or presentations upon such a petition unless clarification of the issues raised therein is desired.



## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

(Source: Repealed at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## SUBPART C B: ORGANIZATION

## Section 925.210 Structure of the Department

The Department of Human Rights is headed by the a Director of Human Rights who is appointed by the Governor with the advice and consent of the Senate. The Department is organized functionally in four divisions: Administration, Legal, Charge Processing and Compliance. In addition, an Executive Staff assists and supports the Director in discharging the responsibilities of that office including maintaining liaison with community-based organizations and providing information to the public on Department activities. The Department's structure is depicted in Appendix A.

(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## Section 925.220 Administration Division (Repealed)

The Administration Division is responsible for budgeting, financial planning and recordkeeping; for maintaining central personnel records and monitoring compliance with personnel regulations; and for operating the Department's electronic data processing equipment. The Administration Division is headed by the Director's Executive Assistant.

(Source: Repealed at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## Section 925.230 Legal Division (Repealed)

The Legal Division provides legal support to other agency components and is responsible for analyzing and assuring the correctness of the Department's disposition of contested claims. It is headed by a managing attorney who reports to the General Counsel on the Director's Executive Staff.

(Source: Repealed at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## Section 925.240 Charge Processing Division (Repealed)

The Charge Processing Division consists of two sections: intake and investigations. The intake section is responsible for

## ILLINOIS DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

advising potential complainants and assisting them in filing charges or referring them to other sources of assistance. The investigations section conducts investigations of and attempts to settle privately-filed charges of non-systemic discrimination. The Charge Processing Division handles charges alleging civil rights violations in all jurisdictional areas under the Human Rights Act (i.e.: employment; real estate transactions; financial credit; and places of public accommodation). It is headed by a manager reporting to the Director.

(Source: Repealed at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

## Section 925.250 Compliance Division (Repealed)

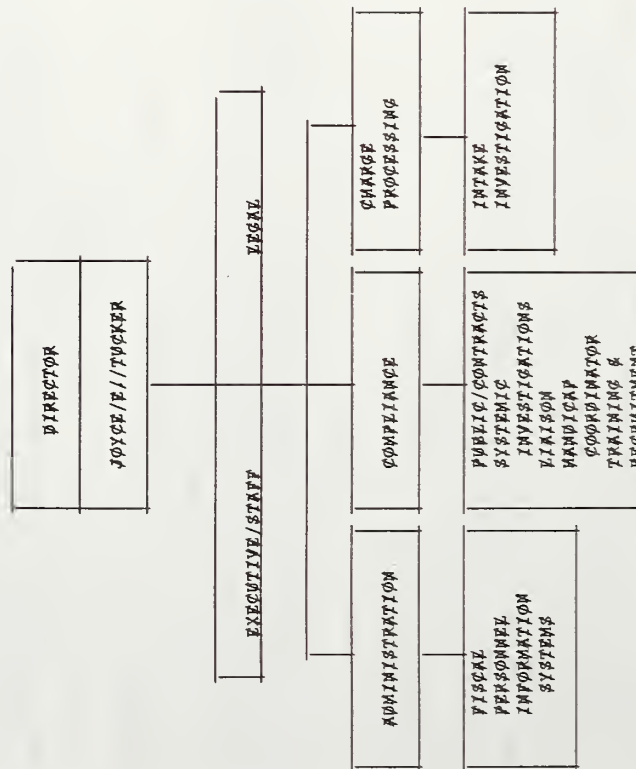
The Compliance Division is organized in several programmatic sections. The Public Contracts Section monitors nondiscrimination and affirmative action in employment by private employers holding contracts with the State and/or local governments. The State Agency Liaison Section monitors compliance by executive State agencies with their equal employment opportunity and affirmative action responsibilities. The System Investigations Section identifies apparent patterns and practices of unlawful discrimination in all jurisdictional areas and recommends targets for Department-initiated charges; it also investigates and attempts to resolve such systemic charges whether initiated by the Department or filed by private parties. The training and Recruitment Section designs and conducts equal opportunity training programs for external users and recruits qualified minority and female job applicants for State employment. The Compliance Division also houses a Handicap Programs Coordinator who provides technical guidance to employers and others on accommodating the handicapped; and who serves as a liaison to groups concerned with the needs of disabled persons. The Compliance Division is headed by a manager reporting to the Director.

(Source: Repealed at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994)

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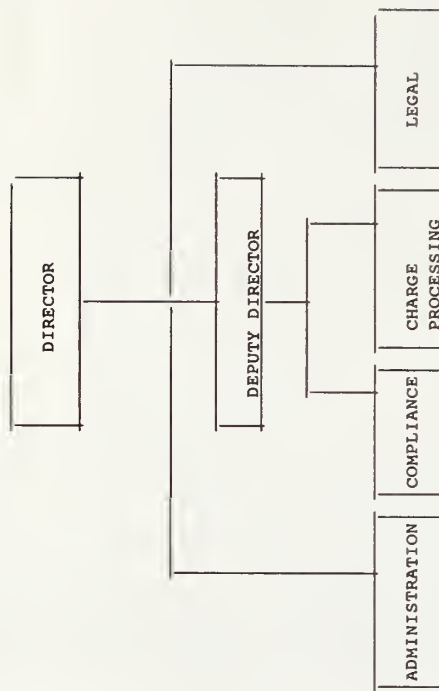
Section 925.APPENDIX A Organizational Chart



(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994 )

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

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(Source: Amended at 18 Ill. Reg. \_\_\_\_\_, effective January 4, 1994 )

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED RULES

- 1) The Heading of the Part:  
Pregnancy Termination Report Code

- 2) Code Citation:  
77 Ill. Adm. Code 505

- 3) Section Numbers:  
505.10 New Section  
505.20 New Section  
505.30 New Section  
505.40 New Section  
505.50 New Section  
505-Appendix A New Section

- 4) Statutory Authority:  
The Illinois Abortion Law of 1975 (Ill. Rev. Stat., 1991, ch. 38, par. 81-21 et seq.) [720 ILCS 510].

- 5) Effective Date of Rulemaking: December 29, 1993

- 6) Does this Rulemaking Contain an Automatic Repeal Date? No

- 7) Does this Rulemaking Contain any Incorporation by Reference? No

- 8) Date Filed in Agency's Principal Office: December 29, 1993

- 9) Date Notice of Proposed Rulemaking was Published in the Illinois Register:

(17 Ill. Reg. 13631 - July 30, 1993)

- 10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking:

No

If Yes, Date Agency Response Submitted for Approval to ICAR:

Date Statement of Objection was Published in the Illinois Register:

## DEPARTMENT OF PUBLIC HEALTH

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- 11) Difference Between Proposal and Final Version:

The heading of Section 505.10 has been changed from "Incorporation by Reference" to "Statutes Referenced".

- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee?

All changes agreed between the Department and the Joint Committee on Administrative Rules have been made.

- 13) Will the Rulemaking Replace an Emergency Rule Currently in Effect?

Yes

- 14) Are there any other Amendments Pending on this Part? No

- 15) Summary and Purpose of Rulemaking:

This rulemaking implements a consent decree in the case of Herbst et al. v. O'Malley et al., U.S. District Court of the Northern District of Illinois, No. 84 C 6502. The consent decree requires the Department to prescribe rules securing the anonymity of each woman undergoing an abortion, rules creating a public use tape for the dissemination of aggregate data reported to the Department, and all forms required under Section 10 of the Illinois Abortion Law. In addition, the consent decree authorizes the Department to promulgate rules that, while preserving a woman's anonymity, prescribe specific reporting requirements relating to pregnancy terminations. The Department is required to issue all rules pursuant to the consent decree within 60 days from the date of approval of the consent decree.

- 16) Information and Questions Regarding this Adopted Rulemaking Shall be Directed to:

Ms. Gail M. DeVito, Division of Governmental Affairs, Illinois Department of Public Health, 535 West Jefferson, Fifth Floor, Springfield, Illinois 62761 (217)782-6187.



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED RULES

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER a: VITAL RECORDS

## PART 505

## PREGNANCY TERMINATION REPORT CODE

## Section

505.10 Statutes Referenced

505.20 Purpose

505.30 Definitions

505.40 Submission of Information

505.50 Availability of Information

## 505. Appendix A Report of Induced Termination of Pregnancy

**AUTHORITY:** Implementing and authorized by the Illinois Abortion Law of 1975 (Ill. Rev. Stat., 1991, ch. 38, par. 81-21 et seq.) [720 ILCS 510].

**SOURCE:** Emergency rules adopted at 17 Ill. Reg. 13631, effective August 1, 1993, for a maximum of 150 days; adopted at 18 Ill. Reg. \_\_\_\_\_, effective December 29, 1993.

**NOTE:** Italics and capitalization denote statutory language.

## Section 505.10 Statutes Referenced

The following Illinois statutes are referenced in this Part:

- a) Illinois Abortion Law of 1975 (Ill. Rev. Stat., 1991, ch. 38, par. 81-21 et seq.) [720 ILCS 510];
- b) Illinois Medical Practice Act of 1987 (Ill. Rev. Stat., 1991, ch. 111, par. 4400-1 et seq.) [225 ILCS 60];
- c) Freedom of Information Act (Ill. Rev. Stat., 1991, ch. 116, par. 201 et seq.) [5 ILCS 140/1];
- d) Medical Studies Act (Ill. Rev. Stat., 1991, ch. 110, par. 8-2101 et seq.) [735 ILCS 5/8-2101].

## Section 505.20 Purpose

It is the intent of Section 10 of the Illinois Abortion Law of 1975, that a report of each abortion performed in Illinois shall be made to the Department. In implementing this Law, the Department

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED RULES

promulgates rules to secure the anonymity of the identity of each woman undergoing an abortion.

## Section 505.30 Definitions

"Aggregate data" means a compilation of the data received by the Department on Reports of Induced Termination of Pregnancy for each data set listed, except the following will not be included:

Facility name;

Patient's identification number;

Physician's license number;

Any set of information for which the amount is so small (eg. 50 or fewer) that identity of any person(s) to whom it relates may be discerned; and

Education.

"DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH, STATE OF ILLINOIS. (Section 2 of the Law)

"Director" means the Director, or his designee, of the Department of Public Health, State of Illinois.

"Law" means the Illinois Abortion Law of 1975 (Ill. Rev. Stat., 1991, ch. 38, par. 81-21 et seq.) [720 ILCS 510].

"Patient identifying information" means any information or collection or grouping of data from which the identity of the person to whom it relates may be discerned.

"PHYSICIAN" MEANS ANY PERSON LICENSED TO PRACTICE MEDICINE IN ALL ITS BRANCHES UNDER THE ILLINOIS MEDICAL PRACTICE ACT of 1987. (Section 2 of the Law)

"Pregnancy Termination" MEANS THE USE OF ANY INSTRUMENT, MEDICINE, DRUG OR OTHER SUBSTANCE OR any DEVICE TO TERMINATE THE PREGNANCY OF A WOMAN KNOWN TO BE PREGNANT WITH AN INTENTION OTHER THAN TO INCREASE THE PROBABILITY OF A LIVE BIRTH, TO PRESERVE THE LIFE OR HEALTH OF THE CHILD AFTER LIVE BIRTH, OR TO REMOVE A DEAD FETUS. (Section 2 of the Law)

"Public Use Tape" means a computer tape of aggregate data.

## Section 505.40 Submission of Information

- a) The Report of Induced Termination of Pregnancy consists of one form as prescribed and promulgated by the Department as Appendix A of this Part. This form shall be provided

## DEPARTMENT OF PUBLIC HEALTH

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by the Department.

- b) All Reports of Induced Termination of Pregnancy shall be submitted TO THE DEPARTMENT NOT LATER THAN 10 DAYS FOLLOWING THE END OF THE MONTH IN WHICH THE pregnancy termination WAS PERFORMED. (Section 10 of the Law)
- c) Any additional information that is submitted to the Department may be done on the same form and marked by the reporter as "Additional" Report of Induced Pregnancy Termination and must be submitted within 10 days after its becoming known.

## Section 505.50 Availability of Information

- a) All Reports of Induced Pregnancy Termination shall be treated as confidential and shall be exempt from the Freedom of Information Act.
- b) The Department shall compile the information contained in the Reports of Induced Pregnancy Termination and issue reports of aggregate data as it deems necessary.
- c) The Department shall compile a Public Use Tape upon request. Any person or entity making such a request shall pay the cost of producing such Public Use Tape. If a Public Use Tape has already been produced and paid for, then each succeeding requestor shall only pay the cost of duplicating it.
- d) There shall not be any release of data outside the Department compiled from the Reports of Induced Pregnancy Termination other than the Public Use Tapes.
- e) The Department shall disclose individual patient or facility information to the physician who originally supplied that information to the Department, upon written request of the physician.
- f) The Department, by signed and reciprocating agreement, may disclose individual patient information concerning residents of another state to the registry in the individual's state of residence only if the recipient of such information is legally required to hold such information in confidence and provides protection from disclosure of patient identifying information equivalent to the protection afforded by the Illinois law.
- g) The patient identifying information submitted to the Department by those entities required to submit information under the Law and this Part is to be used in the course of medical study under the Medical Studies Act. Therefore, such information shall not be admissible as evidence, nor discoverable in any action of any kind in any court or before any tribunal, board, agency or person.

Section 505. Appendix A Report of Induced Termination of Pregnancy

## DEPARTMENT OF PUBLIC HEALTH

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### REPORT OF INDUCED TERMINATION OF PREGNANCY

(All information submitted herein shall be confidential pursuant to the Pregnancy Termination Report Code, 77 Ill. Adm. Code 505)

|  |  |                                    |  |   |  |  |  |            |  |                             |  |                            |  |                      |  |   |  |   |  |
|--|--|------------------------------------|--|---|--|--|--|------------|--|-----------------------------|--|----------------------------|--|----------------------|--|---|--|---|--|
| 1. FACILITY NAME (if not clinic or hospital, give address) |  | 2. COUNTY OF PREGNANCY TERMINATION |  | 3. PATIENT'S IDENTIFICATION NO.                         |  | 4a. RESIDENCE - STATE                      |  | 4b. COUNTY |  | 4c. ZIP CODE (Chicago only) |  | 5. PHYSICIAN'S LICENSE NO. |  | 6. AGE LAST BIRTHDAY |  | 7. MARRIED?<br><input type="checkbox"/> Yes <input type="checkbox"/> No |  | 8. DATE OF PREGNANCY TERMINATION (month, day, year) |  |
| 9a. RACE/ETHNIC  |  | 9b. ETHNIC                         |  | 10. EDUCATION<br>(Specify only highest grade completed) |  | 11. CLINICAL ESTIMATE OF GESTATION (Weeks) |  |            |  |                             |  |                            |  |                      |  |   |  |   |  |
| <input type="checkbox"/> Native American                   |  | <input type="checkbox"/> Hispanic: |  |   |  |  |  |            |  |                             |  |                            |  |                      |  |   |  |   |  |
| <input type="checkbox"/> Black                             |  | <input type="checkbox"/> Yes       |  |   |  |  |  |            |  |                             |  |                            |  |                      |  |   |  |   |  |
| <input type="checkbox"/> White                             |  | <input type="checkbox"/> No        |  |   |  |  |  |            |  |                             |  |                            |  |                      |  |   |  |   |  |
| <input type="checkbox"/> Asian                             |  |                                    |  |   |  |  |  |            |  |                             |  |                            |  |                      |  |   |  |   |  |
| <input type="checkbox"/> Other (Specify) _____             |  |                                    |  |   |  |  |  |            |  |                             |  |                            |  |                      |  |   |  |   |  |

|  |                               |                               |  |  |                    |        |        |        |  |
|--|-------------------------------|-------------------------------|--|--|--------------------|--------|--------|--------|--|
| 12. PREVIOUS PREGNANCIES (Complete each section) |                               |                               |  |  |                    |        |        |        |  |
| LIVE BIRTHS                                      |                               |                               |  |  | OTHER TERMINATIONS |        |        |        |  |
| 12a. Now Living                                  | 12b. Now Dead                 | 12c. Spontaneous              | 12d. Induced (Do not include this termination) |  | Number             | Number | Number | Number |  |
| <input type="checkbox"/> None                    | <input type="checkbox"/> None | <input type="checkbox"/> None | <input type="checkbox"/> None                  |  |                    |        |        |        |  |

|                                   |                                  |   |  |  |                                |
|-----------------------------------|----------------------------------|---|--|--|--------------------------------|
| 13. Rh DETERMINATION              |                                  | 14. IF Rh NEGATIVE ANTI-Rh                  |  | 15. REASON FOR TERMINATION                 |                                |
| <input type="checkbox"/> Rh Pos.  | <input type="checkbox"/> Rh Neg. | <input type="checkbox"/> Given              | <input type="checkbox"/> Not offered to patient  | <input type="checkbox"/> Patient's Request | <input type="checkbox"/> Other |
| <input type="checkbox"/> Not Done |                                  | <input type="checkbox"/> Refused by patient | <input type="checkbox"/> Medically not indicated |  |                                |

## DEPARTMENT OF PUBLIC HEALTH

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## Section 505. Appendix A Report of Induced Termination of Pregnancy (Continued)

16a. PROCEDURE THAT TERMINATED PREGNANCY TYPE OF TERMINATION PROCEDURES 16b. ADDITIONAL PROCEDURES USED FOR THIS TERMINATION, IF ANY

(Check only one)

(Check all that apply)

- ☐ Suction Curettage  
☐ Sharp Curettage  
☐ Dilatation and Evacuation (D&E)  
☐ Intra-Uterine Saline Instillation  
☐ Intra-Uterine Prostaglandin Instillation  
☐ Hysterotomy  
☐ Hysterectomy  
☐ Other (Specify) \_\_\_\_\_

17. COMPLICATIONS OF PREGNANCY TERMINATION? ☐ Yes ☐ No  
 If Yes, Mark All That Apply

- ☐ HEMORRHAGE ☐ ANESTHETIC  
☐ UTERINE PERFORATION ☐ RETAINED PRODUCTS  
☐ CERVICAL LACERATION ☐ DEATH  
☐ INFECTION ☐ OTHER, SPECIFY \_\_\_\_\_

18. HOSPITALIZATION REQUIRED AS A RESULT OF COMPLICATION: ☐ Yes ☐ No

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- 1) Heading of Part: Employee Commute Options  
 2) Code Citation: 92 Ill. Adm. Code 600  
 3) Section Numbers:

600.10 600.80  
 600.20 600.90  
 600.30 600.100  
 600.40 600.110  
 600.50 600.120  
 600.60 600.130  
 600.70

Adopted Action:

New Section  
 New Section  
 New Section  
 New Section  
 New Section  
 New Section

- 4) Statutory Authority: Implementing and authorized by the Employee Commute Options Act (P.A. 87-1275, effective March 3, 1993) [625 ILCS 32]

5) Effective date of rules: January 4, 1994

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? No

8) Date filed in agency's principal office: December 29th, 1993

9) Notice of proposal published in Illinois Register:

August 6, 1993, 17 Ill. Reg. 12613

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version:

The labels in Section 600.50(d)(3)(1) through (viii) have been changed to (A) through (H).

The ILCS citations in the Authority Note and in Section 600.20, "The Act" have been corrected.

The definition of "Affiliated entity" has been changed to clarify that "an employer" refers to an "affected" employer.

The definition of "ALTERNATIVE MEANS OF COMMUTING" has been changed to include the word "management" as part of the "TRANSPORTATION DEMAND STRATEGIES" referred to. Also, "buspooling" has been included as part of the list of strategies which can be utilized.



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The Department added language at Section 600.30(a).

Section 600.30(f) is new language.

The phrase "for each worksite" has been added at Section 600.40(d).

A definition of "Vehicle Reduction Value" has been inserted in Section 600.20.

The words "REGISTRATION FORM" in Section 600.50(a) have been changed to lower case.

The following language has been deleted from the end of the sentence in Section 600.50(b): ", follow a week with a Friday holiday, or precede a week with a Monday holiday."

The first sentence in Section 600.50(c) now reads as follows: "Valid APO surveys must include responses from at least 75% of all the employees who were not excused from reporting to the worksite during the survey period."

The phrase "or arriving at" has been added to Section 600.50(H).

The word "management" is now in upper case in Section 600.60(a).

The phrase "at worksites the affected employer did not operate in calendar years 1988-1991" has been inserted in the third sentence in Section 600.80(b).

In Section 600.80(c)(2), the word "at" was deleted and the word "for" was inserted in its place.

The phrase "of the Act" was added at the end of Section 600.80(c)(4).

The word "their" has been replaced with the words "his/her" in Section 600.80(e).

A comma has been added after the word "submittals" in the last sentence of Section 600.80(e).

The word "LOCATED" has been inserted after "OTHER AFFECTED EMPLOYERS" in Section 600.90(c).

The Department changed "OR TWO YEARS" and "OF THE COMPLIANCE PLAN, WHICHEVER IS LATER" to lower case in Section 600.100(b).

In Section 600.110(a), the phrase "SUBMIT A WRITTEN" is now in lower case.

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The Department deleted "(Section 40 of the Act)" following "(ECO Committee)" and inserted it after "PETITION FOR REVIEW" in Section 600.110(a).

In Section 600.110(h), the citation to the Act has been corrected.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes

13) Will this rule replace an Emergency Rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rules:

This Part defines terms and describes the policies and procedures which will govern the Employee Commute Options Program. This Part is designed to comply with the federal Clean Air Act (42 U.S.C. sec. 7401 et seq.) which mandates this program because of the nature of air pollution due to ozone in northeast Illinois. This Part requires employers in the affected area in northeast Illinois to survey their employees to determine how they get to work and when they report to work. Based on the data derived from these surveys, many of the employers will be required to devise plans which increase the average occupancy of the vehicles in which their employees arrive at work.

This Part describes which employers are required to survey their employees, which employees are covered, and which employers will be required to devise compliance plans. The standards which govern how to survey the employees and their commuting practices and how to develop plans to change those habits are described in the rules. The rules also describe the procedures which employers can follow to obtain interpretive rulings on the application of the rules to them or to take appeals of adverse Department decisions. The rules restate the requirements in the Employee Commute Options Act (P.A. 87-1275, effective March 3, 1993) [625 ILCS 32] for employers to maintain records for three years.

16) Information and questions regarding these adopted rules shall be directed to:

Mr. Richard Christopher, Deputy Chief Counsel  
Illinois Department of Transportation  
Office of Chief Counsel  
310 S. Michigan Avenue, Suite 1607  
Chicago, Illinois 60604  
Phone: 312-793-4838

The full text of the Adopted Rules begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULE

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER g: PLANNING AND PROGRAMMINGPART 600  
EMPLOYEE COMMUTE OPTIONS

## SUBPART A: GENERAL

Section  
600.10 Purpose  
600.20 Definitions  
600.30 Interpretive Rulings

## SUBPART B: REGISTRATION AND SURVEYS

Section  
600.40 Completion and Submission of Registration  
600.50 Completion and Submission of APO Survey  
600.60 Maintenance Plans  
600.70 Renewal APO Surveys

## SUBPART C: COMPLIANCE PLANS

Section  
600.80 Completion and Submission of Compliance Plans  
600.90 Combined and Joint Compliance Plans and APO Surveys  
600.100 Compliance Plan Review, Approval and Disapproval  
600.110 Committee Review of Disapproved Plans  
600.120 Renewal Compliance Plans  
600.130 Recordkeeping and Monitoring

AUTHORITY: Implementing and authorized by the Employee Commute Options Act (P.A. 87-1275, effective March 3, 1993) [625 ILCS 32].

SOURCE: Adopted at 18 Ill. Reg., effective January 4, 1994.

NOTE: Capitalization denotes statutory language.

## SUBPART A: General

## Section 600.10 Purpose

The rules in this Part establish an employee commute options program within the Department of Transportation to comply with the mandate in Section 182(d)(1)(B) of the Clean Air Act Amendments of 1990 (now codified at 42 USC 7511a(d)(1)(B)).

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## NOTICE OF ADOPTED RULE

## Section 600.20 Definitions

As used in this Part, the words and terms listed shall have the meanings ascribed to them as follows:

"The Act" means P.A. 87-1275, effective March 3, 1993 [625 ILCS 32].

"AFFECTED AREA" MEANS THE AREA DESIGNATED PURSUANT TO THE CLEAN AIR ACT AS A SEVERE NONATTAINMENT AREA FOR OZONE consisting of the counties of Cook, Lake, DuPage, McHenry, Will and Kane and the townships of Auxsable and Goose Lake in Grundy County and Oswego in Kendall County (Section 10 of the Act).

"AFFECTED EMPLOYER" MEANS AN EMPLOYER THAT, AT A SINGLE WORKSITE WITHIN THE AFFECTED AREA, EMPLOYS 100 OR MORE EMPLOYEES WHO REPORT TO THE WORKSITE (Section 10 of the Act).

"Affiliated entity" means an affected employer that, directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another affected employer.

"ALTERNATIVE MEANS OF COMMUTING" MEANS TRANSPORTATION DEMAND management STRATEGIES, INCLUDING, BUT NOT LIMITED TO, VANPOOLING, buspooling, bicycling, RIDESHARING, USE OF PUBLIC TRANSPORTATION, TELECOMMUTING, FLEX-TIME, STAGGERED WORK HOURS, walking, COMPRESSED WORK WEEKS, AND THE USE OF CLEAN FUEL VEHICLES FOR AFFECTED EMPLOYERS (Section 10 of the Act).

"AVERAGE PASSENGER OCCUPANCY" OR "APO" MEANS THE FIGURE DERIVED BY DIVIDING THE NUMBER OF EMPLOYEES ARRIVING AT THE WORKSITE DURING THE PEAK TRAVEL PERIOD BY THE NUMBER OF VEHICLES DRIVEN BY OR ALLOCATED TO AN EMPLOYEE AT A WORKSITE WITHIN THE AFFECTED AREA DURING THE PEAK TRAVEL PERIOD AS COMPUTED FROM COMPLETED EMPLOYEE SURVEYS (see Section 600.50) (Section 10 of the Act).

"AVERAGE VEHICLE OCCUPANCY" OR "AVO" MEANS THE AVERAGE VEHICLE OCCUPANCY OF VEHICLES WITHIN THE AFFECTED AREA DURING THE PEAK TRAVEL PERIOD, AS CALCULATED BY A STATISTICALLY SIGNIFICANT AND GEOGRAPHICALLY REPRESENTATIVE VISUAL OR OTHER SAMPLING OF ALL SUCH VEHICULAR TRAFFIC AND OCCUPANCY (see Section 600.50) (Section 10 of the Act).

"Buspool" means a bus service, usually administered by employers or employees, and typically involving limited pickup and destination stops, guaranteed seats, and advance reservation and ticket issuance. A "buspool" is sometimes referred to as a

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subscription bus, club bus or a charter.

"Carpool" means a group of 2 or more persons commuting to and from work in a vehicle who would not be considered a vanpool.

"CLEAN AIR ACT" MEANS THE FEDERAL CLEAN AIR ACT, AS AMENDED BY P.L. 101-549 (42 U.S.C. sec. 7401 et seq.) AND AS SUBSEQUENTLY AMENDED OR SUPPLEMENTED (Section 10 of the Act).

"CLEAN FUEL VEHICLE" MEANS A VEHICLE CAPABLE OF OPERATING ON CLEAN FUELS AS DEFINED IN THE CLEAN AIR ACT, INCLUDING LIQUID PETROLEUM GAS, METHANOL (M-85) COMPRESSED NATURAL GAS, ETHANOL (E-85), OR ELECTRICITY, OR OTHER VEHICLES THAT HAVE BEEN CERTIFIED BY THE DEPARTMENT AS CLEAN FUEL VEHICLES and are listed in program guidance (Section 10 of the Act).

"Complex" means an assemblage of buildings that together form a single comprehensive group.

"Compressed work week" means a work schedule which reduces the number of days an employee is required to travel to a worksite and includes but is not limited to 4 10-hour work days per week, 3 12-hour work days per week or 8 9-hour work days and 1 8-hour work day in a 2 week period.

"DEPARTMENT" MEANS THE ILLINOIS DEPARTMENT OF TRANSPORTATION (Section 10 of the Act).

"Development" means contiguous real property, buildings and improvements owned, constructed, managed or operated by a single developer.

"EMPLOYEE" MEANS AN INDIVIDUAL (1) FOR WHOM AN EMPLOYER IS REQUIRED TO WITHHOLD FEDERAL AND STATE INCOME TAXES; (2) WHO IS ASSIGNED PRIMARILY (80 hours per 28 day period excluding Saturdays and Sundays) TO A WORKSITE; (3) WHO WORKS FOR AN EMPLOYER IN EXCESS OF 17.5 HOURS PER WEEK, EXCLUSIVE OF SATURDAYS, SUNDAYS, AND FEDERAL AND STATE HOLIDAYS, ON AN AVERAGE ANNUAL BASIS; AND (4) WHOSE EMPLOYMENT RESPONSIBILITY DOES NOT REQUIRE DRIVING TO A WORKSITE. This last criterion includes only persons who cannot perform their assigned duties unless they drive alone to their worksites each time they report to their worksites (Section 10 of the Act).

"Employee Commute Options Committee or ECO Committee" means THREE people appointed by the Secretary of the Department who are employed by the Department, ARE NOT RESPONSIBLE FOR THE DAY TO DAY OPERATION OF THE EMPLOYEE COMMUTE OPTIONS PROGRAM, and

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULE

work AT THE LEVEL OF DEPUTY DIRECTOR OR DISTRICT ENGINEER OR ABOVE (Section 40 of the Act).

"EMPLOYER" MEANS ANY PERSON, PARTNERSHIP, ASSOCIATION, CORPORATION, TRUST, LEGAL REPRESENTATIVE OR ANY ORGANIZED GROUP OF PERSONS THAT HIRES OR EMPLOYS INDIVIDUALS. THE TERM "EMPLOYER" SHALL ALSO INCLUDE ALL PUBLIC AND QUASI-PUBLIC ENTITIES, INCLUDING, WITHOUT LIMITATION, THE UNITED STATES AND ANY OF ITS GOVERNMENTAL INSTRUMENTALITIES, THE STATE OF ILLINOIS AND ITS INSTRUMENTALITIES AND SUBDIVISIONS, AND ALL STATE AND MULTI-STATE AUTHORITIES, CORPORATIONS, COMMISSIONS, BOARDS AND LIKE BODIES (Section 10 of the Act).

"Immediately surrounding area" means contiguous real property separated only by public roadways or watercourses.

"Parent entity" means an employer that owns or controls another employer.

"PEAK TRAVEL PERIOD" MEANS THE HOURS BETWEEN 6:00 a.m. and 10:00 a.m., MONDAY THROUGH FRIDAY, EXCLUSIVE OF ALL FEDERAL AND STATE HOLIDAYS (Section 10 of the Act).

"Program Guidance" means written materials prepared by the Department which explain the forms and this Part and assist affected employers in completing registrations, surveys and compliance plans. Program guidance will include the values which the Department will assign to alternative means of commuting and other measures which affected employers will use in their compliance plans.

"Public transit" means transportation by bus, rail, or other conveyance, either publicly or privately owned, that provides the public with general or special service on a regular and continuing basis.

"Subsidiary" means an employer that is owned or controlled by another employer.

"Telecommuting" means an employee working at the employee's residence or at a satellite work station such that the employee makes a total or partial substitution for a commute trip to a worksite.

"TRANSPORTATION MANAGEMENT ASSOCIATION" MEANS A NONPROFIT ORGANIZATION THAT COORDINATES TRANSPORTATION DEMAND management STRATEGIES, INCLUDING BUT NOT LIMITED TO, VANPOOLING, RIDESHARING, USE OF PUBLIC TRANSPORTATION, TELECOMMUTING,



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FLEX-TIME, STAGGERED WORK HOURS, COMPRESSED WORK WEEKS, AND THE USE OF CLEAN FUEL VEHICLES FOR EMPLOYERS, CORPORATIONS, DEVELOPERS, INDIVIDUALS, OR OTHER GROUPS joined together by a written agreement whose purpose includes addressing transportation needs and concerns (Section 10 of the Act).

"VANPOOL" MEANS 7 OR MORE PERSONS COMMUTING ON A REGULAR BASIS TO AND FROM A WORKSITE BY MEANS OF A VEHICLE DESIGNED TO CARRY NOT MORE THAN 15 ADULT PASSENGERS (Section 10 of the Act).

"VEHICLE" MEANS AN AUTOMOBILE OR MOTORCYCLE POWERED BY AN INTERNAL COMBUSTION ENGINE WITH FEWER THAN 9 SEATING POSITIONS FOR ADULTS (Section 10 of the Act).

"Vehicle Reduction Value" means a predefined value associated with a particular alternative means of commuting that accounts for a specific reduction in weekly vehicle trips to an affected employer's worksite.

"WORKSITE" MEANS A BUILDING OR PORTION OF A BUILDING OR GROUP OF BUILDINGS LOCATED WITHIN THE AFFECTED AREA THAT IS IN ACTUAL PHYSICAL CONTACT OR SEPARATED ONLY BY A PRIVATE OR PUBLIC ROADWAY OR OTHER PRIVATE OR PUBLIC RIGHT-OF-WAY, AND THAT IS OWNED, OPERATED, OR LEASED BY THE SAME EMPLOYER OR BY EMPLOYERS UNDER COMMON CONTROL (Section 10 of the Act).

## Section 600.30 Interpretive Rulings

- a) Any employer or representative of an employer may request an interpretive ruling from the Department on the meaning and application of terms used in this Part. The Department's rulings will be consistent with the meaning and purpose of the Act and this Part.
- b) Interpretive rulings will be issued within 10 working days of receipt of a written request which includes the following:
  - 1) the name of the affected employer or group of affected employers,
  - 2) enough relevant facts to make the Department's ruling specific and not merely advisory, and
  - 3) legible copies of all other documents referenced in the request.
- c) Interpretive rulings may be relied upon as controlling the Department's actions concerning the affected employer(s) for whom the interpretation is requested, but these rulings will not be binding on the ECO Committee.
- d) Whenever an interpretive ruling results in a finding that an employer

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is an affected employer or that an affected employer is required to file a compliance plan, a petition for review may be filed with the ECO Committee pursuant to the proceedings in Section 600.110.

- e) Interpretive rulings will be open to public inspection but the identity of the affected employer or representative requesting the interpretive ruling will remain confidential.
- f) Interpretive rulings will address issues including, but not limited to, whether a given category of employee should be counted as an employee for purposes of this Part, or, whether an affected employer's work location qualifies as one or more worksites for purposes of this Part.

## SUBPART B: REGISTRATION AND SURVEYS

## Section 600.40 Completion and Submission of Registration

THE DEPARTMENT SHALL MAIL A REGISTRATION FORM, APO SURVEY FORM, COMPLIANCE PLAN FORM and program guidance to EACH EMPLOYER in the affected area with 100 or more employees (Section 20(b) of the Act). WITHIN 30 DAYS after RECEIPT OF A REGISTRATION FORM FROM THE DEPARTMENT, EACH EMPLOYER SHALL complete and RETURN THE REGISTRATION FORM with the following information:

- a) Name and address of the employer.
- b) Number and addresses of worksites in the affected area where 100 or more employees report to work.
- c) Number of employees at each worksite listed above.
- d) DESIGNATION OF THE PERSON RESPONSIBLE for completing the registration form for each worksite and any additional APO surveys, compliance plans or other correspondence required under this Part (Section 20(c) of the Act).
- e) Certification that all of the information provided is true and correct.
- f) The registration form and all other correspondence shall be returned to the address listed in program guidance.

## Section 600.50 Completion and Submission of APO Survey

- a) WITHIN 90 DAYS after RECEIPT OF THE registration form described in Section 600.40, EACH AFFECTED EMPLOYER SHALL COMPLETE AN APO SURVEY ON FORMS PROVIDED BY THE DEPARTMENT for each worksite in the affected area where 100 or more employees report to work and submit the survey(s) to the Department (see Section 600.40 for address)(Section 20(d) of the Act).
- b) APO surveys of individual employees shall be taken over a consecutive five day period which begins on a Monday and does not include a holiday.

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c) Valid APO surveys must include responses from at least 75% of all the employees who were not excused from reporting to the worksite during the survey period. Employees who do not respond or who respond in an incomplete fashion shall be counted as one person arriving at the worksite in one vehicle. If the response rate is 90% or greater, the surveyed ratio will be considered for all employees.

d) Valid APO surveys must include the following tabulated information:

- 1) The number of employees reporting to the worksite during the peak travel period, the number of employees on vacation or sick leave, the number of employees having a scheduled day off due to an alternative work schedule, and the number of employees working at home or reporting to an alternative worksite.
- 2) The number of employees using each mode of travel in the longest portion of their commute to the worksite (measured in time or distance) during the peak travel period including the use of single occupancy vehicles and alternative means of commuting.
- 3) The APO as calculated according to the following standards based on the mode or method that each employee uses to reach the worksite on each day of the APO survey:

A) An employee who reports to the worksite alone in a vehicle not considered a clean fuel vehicle shall be counted as one person reporting to the worksite in one ride to their worksite.

B) An employee who reports in a carpool or vanpool shall be counted as reporting to the worksite in a fraction of a vehicle proportionate to the number of people sharing a ride to their worksite.

C) An employee who reports by public transit or buspool shall be counted as one person reporting to the worksite in zero vehicles.

D) An employee telecommuting who works at his or her residence shall be counted as one person reporting to the worksite in zero vehicles for that day.

E) An employee working full-time on a compressed work schedule shall be counted as one person reporting to the worksite on their compressed weekday off in zero vehicles unless that compressed work schedule encompasses more than one week in which case the appropriate portion of a vehicle will be counted.

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F) An employee who reports to the worksite by walking or riding a nonmotorized bicycle from their residence shall be counted as one person reporting to the worksite in zero vehicles for that day.

G) An employee who reports to the worksite in a clean fuel vehicle shall be counted as one person arriving at the worksite in a FRACTION OF A VEHICLE. THAT FRACTION SHALL BE DETERMINED in program guidance BY DIVIDING THE EMISSION LEVEL CAPABILITY OF THE CLEAN FUEL VEHICLE BY THE EMISSION LEVEL OF CONVENTIONALLY FUELED VEHICLES (Section 10 of the Act).

H) An employee who reports to the worksite in a vehicle that is continuing to or arriving at another worksite shall be counted as one person reporting to the worksite in a fraction of a vehicle proportionate to the number of people sharing a ride to their worksites.

## Section 600.60 Maintenance Plans

a) EACH AFFECTED EMPLOYER WHOSE APO SURVEY SHOWS AN APO WHICH IS 125% OF THE AVO OR GREATER SHALL DESCRIBE THE TRANSPORTATION DEMAND MANAGEMENT STRATEGIES THAT THE AFFECTED EMPLOYER HAS UTILIZED AND WILL CONTINUE TO UTILIZE IN MAINTAINING AN APO AT LEAST 125% OF THE AVO (Section 20(d) of the Act).

b) The description of transportation demand management strategies shall be submitted to the Department within 90 days of receipt of the registration form described in Section 600.40 along with the APO survey.

## Section 600.70 Renewal APO Surveys

a) EACH AFFECTED EMPLOYER SHALL COMPLETE AND SUBMIT A RENEWAL APO SURVEY WITHIN TWO YEARS OF THE AFFECTED EMPLOYER'S INITIAL SURVEY SUBMITTAL AND EVERY TWO YEARS THEREAFTER (Section 45(a) of the Act). Data collected by each affected employer to use in a renewal survey must have been obtained within 90 days of receipt of a renewal notice from the Department.

b) Renewal APO surveys shall be prepared in accordance with the requirements in Section 600.50.

c) If a renewal survey shows or continues to show an APO which is 125% of the AVO or greater, the affected employer shall file a maintenance plan which complies with the standards in Section 600.60.



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## SUBPART C: COMPLIANCE PLANS

## Section 600.80 Completion and Submission of Compliance Plans

- a) ANY AFFECTED EMPLOYER WHOSE APO IS LESS THAN 125% OF THE AVO AND WHO HAS MORE THAN 33 EMPLOYEES REPORTING TO A WORKSITE DURING THE PEAK TRAVEL PERIOD, other than the affected employers described in subsection (b) of this Section, SHALL SUBMIT A COMPLIANCE PLAN ON FORMS PROVIDED BY THE DEPARTMENT WITHIN 150 DAYS OF THE DATE THE APO SURVEY WAS SUBMITTED TO THE DEPARTMENT (Section 20(e) of the Act).
- b) AN AFFECTED EMPLOYER WHO HAS MORE THAN 33 EMPLOYEES REPORTING TO A WORKSITE DURING THE PEAK TRAVEL PERIOD AND WHOSE APO IS LESS THAN 125% OF THE AVO IS NOT REQUIRED TO FILE A COMPLIANCE PLAN OR RENEWAL COMPLIANCE PLAN IF THAT AFFECTED EMPLOYER HAS A NON-STANDARD WORK SCHEDULE WHEREIN THE EMPLOYER HAS 4 OR MORE REPORTING PERIODS DURING A 24 HOUR PERIOD AND 33 OR FEWER EMPLOYEES TYPICALLY REPORT FOR WORK AT A WORKSITE DURING EACH OF THE 4 ONE HOUR PERIODS COMPRISING THE PEAK TRAVEL PERIOD AND THE NON-STANDARD WORK SCHEDULE IS A COMMON PRACTICE OF THE AFFECTED EMPLOYER OR IS THE COMMON PRACTICE IN THE AFFECTED EMPLOYER'S TRADE OR BUSINESS (Section 20(f) of the Act). In order to show that a non-standard work schedule is a common practice of the affected employer, the employer must certify with records for at least calendar years 1988-1991 that a non-standard work schedule was in place and used including 4 or more reporting periods per 24 hour period and the number of employees reporting during each of the hours in the peak travel period. In order to show that a non-standard work schedule is a common practice in the affected employer's trade or business at worksites the affected employer did not operate in calendar years 1988-1991, the employer must produce trade association data which can be verified by contacting and interviewing the association representative who prepared the data. The burden to show that a non-standard work schedule is a common practice shall rest with the affected employer.

## c) A compliance plan shall contain the following information:

- 1) The name and address of the worksite(s) covered by the plan.
- 2) A certification indicating management commitment to the compliance plan signed by the affected employer's chief executive officer, or the highest ranking official for the worksite.
- 3) Documentation of the number of employees employed at each worksite using forms prescribed by the Department.
- 4) A calculation of the worksite APO using the results of the

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## survey required under Section 20 of the Act.

- S) Alternative means of commuting strategies which CONVINCINGLY DEMONSTRATE THAT AN AFFECTED EMPLOYER IS REASONABLY LIKELY TO ACHIEVE AN APO OF at least 125% OF THE AVO WITHIN 2 YEARS or by July, 1998, WHICHEVER IS LATER (Section 30 of the Act).
- d) Each affected employer will receive program guidance to follow in establishing its compliance plan. This guidance will consist of an ECO Plan Packet to be provided to each employer, which identifies the vehicle reduction value that the Department will accept for each incentive or incentive package. After completion of the APO survey and calculation of the required weekly vehicle reduction, affected employers may choose options from the packet that add up to the required weekly vehicle reduction. If an employer submits a plan using the values from their packet and all other program requirements are met, the plan will be approved by the Department and used by the affected employer until the completion of the renewal APO survey as required in Section 600.70. The actual values assigned in the ECO Plan Packet at a minimum, will reflect the employer size, the accessibility to existing transit, the implementation of traditional single occupancy vehicle reduction measures, and the establishment of educational and marketing related measures by the individual employer. The strategies and the associated values will be designed so all affected employers can effectively develop and implement a compliance plan. The intent of this guidance is to provide an efficient way for affected employers to comply with this Part, to limit the cost necessary to implement this Part, and to enhance the ability of the Department to obtain approval of the Employee Commute Options Program by the United States Environmental Protection Agency.
- e) An affected employer may choose not to use the incentives in the ECO Plan Packet provided by the Department. In which case, the affected employer must design, analyze and document his/her own application of incentives and corresponding vehicle reduction values. The design, analysis, documentation and vehicle reduction values must be approved by the Department prior to submittal of the compliance plan. The Department will look at the same general factors it used to develop values when it reviews these submittals, taking into consideration the particular circumstances of each affected employer who chooses to follow this procedure.

## Section 600.90 Combined and Joint Compliance Plans and APO Surveys

- a) An affected employer may calculate a combined APO from TWO OR MORE WORKSITES it operates or in combination with worksites which are operated by ITS PARENT ENTITY or by an AFFILIATED ENTITY OR SUBSIDIARY as long as a separate survey form is submitted for each



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worksite containing the data and calculations required by Section 600.50 (Section 30(b) of the Act). The term "worksite" as used in this subsection refers only to locations where 100 or more employees report to work.

- b) An affected employer who calculates APO according to a combination allowed under subsection (a) of this Section may submit a combined compliance plan designed to achieve an overall APO of 125% of the AVO for all of the worksites covered by the combined APO as long as the information required by Section 600.80 is provided for each worksite.
- c) AN AFFECTED EMPLOYER MAY enter into a joint COMPLIANCE PLAN WITH OTHER AFFECTED EMPLOYERS LOCATED IN AN IMMEDIATELY SURROUNDING AREA, DEVELOPMENT OR COMPLEX OR THROUGH A TRANSPORTATION MANAGEMENT ASSOCIATION as long as the plan includes the information required by Section 600.80 for each worksite and each employer achieves an APO of at least 125% of the AVO (Section 30(c) of the Act).

## Section 600.100 Compliance Plan Review, Approval and Disapproval

- a) THE DEPARTMENT SHALL NOTIFY THE EMPLOYER WITHIN 90 DAYS after THE SUBMITTAL OF A COMPLIANCE PLAN OF ITS DECISION TO APPROVE THE COMPLIANCE PLAN AS SUBMITTED, TO CONDITIONALLY APPROVE THE COMPLIANCE PLAN IF THE AFFECTED EMPLOYER MODIFIES THE COMPLIANCE PLAN WITHIN 30 DAYS ACCORDING TO RECOMMENDATIONS MADE BY THE DEPARTMENT, TO DISAPPROVE THE COMPLIANCE PLAN AND REQUIRE THE SUBMITTAL OF ANOTHER COMPLIANCE PLAN, OR TO EXTEND ITS REVIEW OF THE COMPLIANCE PLAN BEYOND 90 DAYS. IF THE DEPARTMENT EXTENDS ITS COMPLIANCE PLAN REVIEW PERIOD BEYOND 90 DAYS, THE EMPLOYER'S COMPLIANCE PLAN SHALL BE CONSIDERED APPROVED UNTIL THE DEPARTMENT NOTIFIES THE EMPLOYER OF ITS DECISION (Section 35(a) of the Act).

- b) THE DEPARTMENT'S STANDARD FOR GRANTING APPROVAL OR CONDITIONAL APPROVAL OF AN AFFECTED EMPLOYER'S COMPLIANCE PLAN SHALL BE THAT THE COMPLIANCE PLAN INCLUDES SUFFICIENT AND APPROPRIATE ALTERNATIVE MEANS OF COMMUTING STRATEGIES SO THAT the plan convincingly demonstrates that IT IS REASONABLY LIKELY THAT THE AFFECTED EMPLOYER WILL ACHIEVE AN APO OF 125% OF THE AVO BY July, 1998 or two years after submission of the compliance plan, whichever is later (Section 35(b) of the Act).

- c) WHEN THE DEPARTMENT DISAPPROVES AN AFFECTED EMPLOYER'S COMPLIANCE PLAN, ANOTHER COMPLIANCE PLAN SHALL BE SUBMITTED WITHIN 60 DAYS. IF THE DEPARTMENT'S REVIEW OF THE SECOND COMPLIANCE PLAN DOES NOT RESULT IN APPROVAL OR CONDITIONAL APPROVAL, THE AFFECTED EMPLOYER SHALL IMPLEMENT THE ALTERNATIVE MEANS OF COMMUTING STRATEGIES PRESCRIBED BY THE DEPARTMENT IN RESPONSE TO THE SECOND SUBMITTAL, UNLESS THE EMPLOYER PETITIONS under Section 600.110. THE DEPARTMENT SHALL PROVIDE DETAILED REASONS FOR ALL DISAPPROVALS AND CONDITIONAL

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## APPROVALS IN WRITING TO THE EMPLOYER (Section 35(c) of the Act).

- d) DURING THE PENDENCY OF a PETITION under Section 600.110 AND APPEAL under the Administrative Review Law, THE AFFECTED EMPLOYER SHALL CONTINUE TO IMPLEMENT THE SECOND COMPLIANCE PLAN AS SUBMITTED (Section 40 of the Act).

## Section 600.110 Committee Review of Disapproved Plans

- a) AFTER AN AFFECTED EMPLOYER'S COMPLIANCE PLAN IS DISAPPROVED FOR THE SECOND TIME, THE AFFECTED EMPLOYER MAY, WITHIN 35 DAYS after RECEIPT OF WRITTEN disapproval submit a written PETITION FOR REVIEW (Section 40 of the Act) with the Chairperson of the Employee Commute Options Committee (ECO Committee). The Chairperson shall be designated by the Secretary of the Department.
- b) A petition for review shall state the reasons why an affected employer believes its compliance plan should have been approved. A petition for review shall not contain any new information which has not already been submitted to the Department.
- c) The ECO Committee shall meet whenever it is presented with a petition for review which is ready for consideration. ECO Committee meetings may be conducted in one location or by teleconference.
- d) The ECO Committee shall review the entire record of materials submitted by the affected employer and the response from the Department. The ECO Committee shall not review any internal Department memos or worksheets which were not given to the affected employer.
- e) If the Department chooses to file a written response to the affected employer's petition for review, it shall do so within 10 working days of the date it receives a copy of the petition. The affected employer may reply to the Department's response within 10 working days of the date it receives a copy of the response.
- f) The ECO Committee shall allow oral argument at its meetings subject to reasonable limitations and shall deliberate in the presence of the Department and the affected employer and may ask questions to aid in its deliberations.
- g) The ECO Committee may affirm or reverse the Department's second disapproval or remand the matter for further analysis. On remand, the Department and the affected employer will provide the additional analysis and present their findings to the ECO Committee.

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- h) The ECO Committee's final decision to affirm or reverse the second disapproval shall be the Department's final administrative decision for purposes of the ADMINISTRATIVE REVIEW LAW (Section 40 of the Act).

## Section 600.120 Renewal Compliance Plans

- a) EACH AFFECTED EMPLOYER required to submit a compliance plan based on the information in its renewal APO survey SHALL SUBMIT A RENEWAL COMPLIANCE PLAN NO LATER THAN July, 1998 OR NO LATER THAN TWO YEARS AFTER SUBMISSION OF ITS INITIAL COMPLIANCE PLAN, WHICHEVER IS LATER, AND EVERY 2 YEARS THEREAFTER, IF, AS OF THAT DATE, THE AFFECTED EMPLOYER EMPLOYS MORE THAN 33 EMPLOYEES WHO REPORT TO THE WORKSITE DURING THE PEAK TRAVEL PERIOD AND HAS NOT ACHIEVED AN APO OF 125% OF THE AVO (Section 50(a) of the Act).

- b) Renewal compliance plans shall comply with the requirements of Section 600.80 and shall be reviewed according to the requirements in Sections 600.100 and 600.110.

## Section 600.130 Recordkeeping and Monitoring

AFFECTED EMPLOYERS SHALL MAINTAIN RECORDS RELATING TO DEVELOPMENT OF SURVEYS AND COMPLIANCE PLANS AND RECORDS OF INFORMATION RELEVANT TO THE DEVELOPMENT AND IMPLEMENTATION OF ALTERNATIVE MEANS OF COMMUTING STRATEGIES IN APPROVED COMPLIANCE PLANS FOR THREE YEARS. THE DEPARTMENT MAY INSPECT, VERIFY, AND AUDIT AN AFFECTED EMPLOYER'S COMPLIANCE PLAN RECORDS AND MONITOR ACTIVITIES RELATED TO AN AFFECTED EMPLOYER'S ALTERNATIVE MEANS OF COMMUTING STRATEGIES UPON REASONABLE NOTICE DURING REGULAR BUSINESS HOURS (Section 70 of the Act).

## COMMISSIONER OF BANKS AND TRUST COMPANIES

## NOTICE OF PUBLIC INFORMATION

## NOTICE OF PUBLIC MEETING

Notice is hereby given that the Illinois Fiduciary Advisory Committee will hold its regularly scheduled meeting on Wednesday, January 19, 1994, at the Office of the Illinois Commissioner of Banks and Trust Companies, 310 South Michigan, Suite 2130, Chicago, Illinois. The meeting will begin at 10:30 a.m. The meeting will be open to the public in accordance with the Open Meetings Act, 5 ILCS 120/1-120/6 (1992) [Ill. Rev. Stat. ch. 120, par. 41 (1991)].

This meeting will be accessible to handicapped individuals in compliance with Executive Order #5 and pertinent state and federal laws upon notification of anticipated attendance. Handicapped persons planning to attend and needing special accommodations should contact, either by telephone or by letter, Jerry Alexander, Room 100, Reisch Building, 117 South Fifth Street, Springfield, Illinois 62701 or (217)785-1679 to inform the committee of their anticipated attendance.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 28, 1993 through January 3, 1994, and have been scheduled for review by the Committee at its January 11, 1994 or February 15, 1994 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Office Bldg., Springfield IL 62706.

| Second Notice Expires | Agency and Rule   | Start of First Notice        | JCAR Meeting |
|-----------------------|---|------------------------------|--------------|
| 2/10/94               | Department of Professional Regulation, Clinical Social Work and Social Work Practice Act (68 Ill Adm Code 1470) | 6/11/93<br>17 Ill Reg 8435   | 1/11/94      |
| 2/10/94               | Illinois Racing Board, Definitions (11 Ill Adm Code 210)  | 11/5/93<br>17 Ill Reg 19057  | 1/11/94      |
| 2/10/94               | Illinois Racing Board, Repeal of Definitions (11 Ill Adm Code 401)  | 11/5/93<br>17 Ill Reg 19030  | 1/11/94      |
| 2/10/94               | Illinois Racing Board, Repeal of Definitions and Interpretations (11 Ill Adm Code 501)                          | 11/5/93<br>17 Ill Reg 19040  | 1/11/94      |
| 2/10/94               | Illinois Racing Board, Repeal of Definitions (11 Ill Adm Code 1304)   | 11/5/93<br>17 Ill Reg 19033  | 1/11/94      |
| 2/10/94               | Illinois Racing Board, Repeal of Definitions and Interpretations (11 Ill Adm Code 1401)                         | 11/5/93<br>17 Ill Reg 19050  | 1/11/94      |
| 2/10/94               | Illinois Racing Board, Jockeys, Apprentices, Jockey Agents, and Valets (11 Ill Adm Code 1411)                   | 11/19/93<br>17 Ill Reg 19892 | 1/11/94      |

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLYSECOND NOTICES RECEIVED  
(Page 2)

| Second Notice Expires | Agency and Rule  | Start of First Notice        | JCAR Meeting |
|-----------------------|--|------------------------------|--------------|
| 2/10/94               | Department of Public Health, Local Health Protection Grant Rules (77 Ill Adm Code 615) | 10/15/93<br>17 Ill Reg 17798 | 1/11/94      |
| 2/10/94               | Department of Public Health, Child Health Examination Code (77 Ill Adm Code 665)       | 3/5/93<br>17 Ill Reg 2697    | 1/11/94      |
| 2/11/94               | State Board of Education, Special Education (23 Ill Adm Code 226)                      | 8/13/93<br>17 Ill Reg 13231  | 1/11/94      |
| 2/16/94               | Commissioner of Banks and Trust Companies, Eligible State Bank (38 Ill Adm Code 380)   | 11/12/93<br>17 Ill Reg 19347 | 2/15/94      |



## PROCLAMATION

93-554

## RELIGIOUS FREEDOM DAY

Whereas, the Virginia Statute for Religious Freedom, penned by Thomas Jefferson in 1777 and enacted into law in 1786, inspired the religious freedom guarantee that tops the list of rights ensured by the First Amendment of the Constitution; and

Whereas, the United States has experienced 207 years of healthy separation between government and religion, which has been conductive not only to religious freedom but also to peace, harmony, and coexistence of different faiths; and

Whereas, the Council for America's First Freedom, with the passage of a Resolution by Congress and a Proclamation signed by the President, established the nation's first Religious Freedom Day, January 16, 1993; and

Whereas, the goals of the Council are to educate the world regarding the significance of the Virginia Statute for Religious Freedom, to commemorate the Virginia Statute in a permanent monument where religious freedom and freedom of conscience will be studied and celebrated, and to offer the principles of the Virginia Statute as a guide to enhancing the prospects for peace among the diverse peoples of all lands;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 16, 1994, as RELIGIOUS FREEDOM DAY in Illinois in conjunction with the national celebration.

Issued by the Governor May 12, 1993.

Filed with the Secretary of State December 30, 1993.

93-555

## FRANCHISING WEEK

Whereas, franchising has become one of the top choices of business structure among the business community; and

Whereas, there are more than 542,000 franchised businesses across the nation with 11,173 in Illinois; and

Whereas, in the last fiscal year 947 new franchises were established in Illinois, creating more jobs; and

Whereas, franchises have proved to provide stability and success for small businesses; and

Whereas, franchises account for 34 percent of all retail and service business conducted annually in the United States;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 13-19, 1994, as FRANCHISING WEEK in Illinois.

Issued by the Governor December 22, 1993.

Filed with the Secretary of State December 30, 1993.

93-556

## SELF-ESTEEM MONTH

Whereas, low self-esteem is directly related to social problems such as teen pregnancy, alcohol and drug use, school dropouts, crime and violence, welfare dependency, and child and spousal abuse; and

Whereas, the Illinois Council for Self-Esteem is dedicated to educating the people of Illinois about self-esteem, its role and importance in society and forming a state-wide network of individuals and organizations committed to promoting and emphasizing the importance of healthy self-esteem; and

Whereas, healthy self-esteem enhances achievement, productivity, and creativity; and

Whereas, the National Council for Self-Esteem has designated the month of February 1993 as SELF-ESTEEM MONTH in Illinois.

Issued by the Governor December 22, 1993.

Filed with the Secretary of State December 30, 1993.

**HUMAN RIGHTS, DEPARTMENT OF**

- 2 Ill. Adm. Code 926 Access to Information (A-512)
- 2 Ill. Adm. Code 925 Rulemaking and Organization (A-525)

**INSURANCE, DEPARTMENT OF**

- 50 Ill. Adm. Code 2017 Uniform Medical Claim and Billing (P-37)

**POLLUTION CONTROL BOARD**

- 35 Ill. Adm. Code 304 Effluent Standards (P-15223/93; A-267)
- 35 Ill. Adm. Code 720 Hazardous Waste Management System: General (P-337)
- 35 Ill. Adm. Code 721 Identification and Listing of Hazardous Waste (P-357)
- 35 Ill. Adm. Code 725 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (P-377)
- 35 Ill. Adm. Code 728 Land Disposal Restrictions (P-388)
- 35 Ill. Adm. Code 702 RCRA and UIC Permit Programs (P-406)
- 35 Ill. Adm. Code 703 RCRA Permit Program (P-419)
- 35 Ill. Adm. Code 724 Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (P-439)
- 35 Ill. Adm. Code 455 Standards for the Management of Used Oil (P-455)

**PROFESSIONAL REGULATIONS, DEPARTMENT OF**

- 68 Ill. Adm. Code 1285 Medical Practice Act of 1987 (RQ-21209/93; EC-312)

**PUBLIC AID, DEPARTMENT OF**

- 89 Ill. Adm. Code Child Support Enforcement (P-497)
- 89 Ill. Adm. Code Rights and Responsibilities (P-15461/93; A-273)

**PUBLIC HEALTH, DEPARTMENT OF**

- 77 Ill. Adm. Code 250 Hospital Licensing Requirements (P-46)
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- 77 Ill. Adm. Code 547 Regional Ambulance Services Code (P-95)
- 77 Ill. Adm. Code 420 Rules and Regulations to Carry Out Provisions of Titles XVIII and XIX of the Social Security Act Relating to Skilled Nursing and Intermediate Care Facilities (PR-103)

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- 92 Ill. Adm. Code 600 Employee Commute Options (P-12613/93; A-540)
- 92 Ill. Adm. Code 518 Relocation Assistance and Payments Program (P-12628/93; A-283)

**ACTION CODES**

- |  |   |
|--|---|
| <p>A - Adopted Rule<br/> AR - Adopted Repealer</p> <p>C - Notice of Corrections<br/> CC - Codification Changes<br/> E - Emergency Rule<br/> ER - Emergency Repealer<br/> M - Modification to meet JCAR objections<br/> O - JCAR Statement of Objections<br/> RQ - Request for Correction<br/> EC - Expedited Corrections</p> | <p>P - Proposed Rule<br/> PF - Prohibited Filing Order by JCAR*</p> <p>PP - Peremptory or Court Ordered Rules<br/> PR - Proposed Repealer<br/> R - Refusal to meet JCAR Objection<br/> RC - Statement of Recommendation<br/> S - Suspension ordered by JCAR<br/> W - Withdrawal to meet JCAR Objections</p> |
|--|---|

\*Joint Committee on Administrative Rules

ALL RULES ARE LISTED BY PART NUMBER AND HEADING ONLY. (FOR ACTION ON SPECIFIC SECTIONS, PLEASE REFER TO THE SECTIONS AFFECTED INDEX.) IF THERE ARE ANY QUESTIONS, PLEASE CONTACT THE ADMINISTRATIVE CODE DIVISION AT (217) 782-9786.

**AGRICULTURE, DEPARTMENT OF**

- 8 Ill. Adm. Code 257 Cooperative Groundwater Protection Program (P-14288/93; A-205)
- 8 Ill. Adm. Code 125 Meat and Poultry Inspection Act (PP-304)

**CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF**

- 80 Ill. Adm. Code 310 Pay Plan (P-13657/93; A-227)

**CONSERVATION, DEPARTMENT OF**

- 17 Ill. Adm. Code 1070 Possession of Specimens or Products of Endangered or Threatened Species (P-1)

**EDUCATION, STATE BOARD**

- 23 Ill. Adm. Code 245 Urban Education Partnership Program (P-10131/93; A-237)

**EMPLOYMENT SECURITY, DEPARTMENT OF**

- 56 Ill. Adm. Code 2770 Determination of Unemployment Contributions (P-17628/93; A-250)
- 56 Ill. Adm. Code 2760 Notices, Records, Reports (P-16319/93; A-261)

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- 35 Ill. Adm. Code 184 Licensing of Industrial Hygienists (P-4)

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- 41 Ill. Adm. Code 200 Storage, Transportation, Sale and Use of Liquefied Petroleum Gases (P-22)

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| TYPE OF RULE MAKING            | ACTION CODE                      |
|--------------------------------|----------------------------------|
| am = amend to existing Section | A = Adopted Rule                 |
| cc = codification changes      | E = Emergency                    |
| n = New section                | P = Proposed Rule                |
| r = repeal of existing Section | PP = Peremptory                  |
| re = recodified                | M = Modification                 |
| # = renumbered                 | W = Withdrawal                   |
|                                | CC = Codification Changes        |
|                                | RQ = Request for Correction      |
|                                | PF = Prohibited Filing           |
|                                | S = Suspension                   |
|                                | O = JCAR Objection               |
|                                | F = Failure to Remedy Objections |
|                                | RC = Recommendations             |
|                                | EC = Expedited Correction        |
|                                | C = Correction                   |

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|                      | 926.290 # (P-512)  |                               |
| <b>TITLE 2</b>       |                    | <b>TITLE 8</b>                |
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| 925.210 am (P-525)   |                    | 257.30 n (P-14288/93; A-205)  |
| 925.220 r (P-525)    |                    | 257.40 n (P-14288/93; A-205)  |
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| 926.10 r (P-512)     |                    | 257.90 n (P-14288/93; A-205)  |
| 926.20 # (P-512)     |                    | 257.100 n (P-14288/93; A-205) |
| 926.110 r (P-512)    |                    |                               |
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| 926.236 #,am (P-512) |                    | 204.80 am (P-126)             |
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